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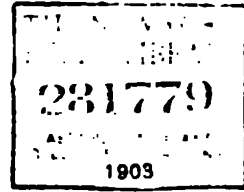
COMPILATION
OF
EXECUTIVE DOCUMENTS
AND
DIPLOMATIC CORRESPONDENCE
RELATIVE TO
A TRANS-ISTHMIAN CANAL
IN
CENTRAL AMERICA

WITH SPECIFIC REFERENCE TO THE TREATY OF 1846 BETWEEN THE UNITED STATES AND
NEW GRANADA (U. S. OF COLOMBIA) AND THE "CLAYTON-BULWER" TREATY
OF 1850 BETWEEN THE UNITED STATES AND GREAT BRITAIN

—
VOL. II.

25

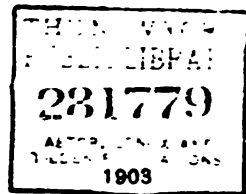
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53d Congress, 2d Session.
House Misc. Doc. Vol. 37.
Messages and Papers of the Presidents.
In Vol. V., Pp. 42-44.

22d April, 1850.

(Special Message of the President of the U. S.)

WASHINGTON, April 22, 1850.

To the Senate of the United States :

I herewith transmit to the Senate, for their advice with regard to its ratification, a convention between the United States and Great Britain, concluded at Washington, on the 19th instant by John M. Clayton, Secretary of State, on the part of the United States, and by the Right Hon Sir Henry Lytton Bulwer, on the part of Great Britain.

This treaty has been negotiated in accordance with the general views expressed in my message to Congress in December last. The object is to establish a commercial alliance with all great maritime states for the protection of a contemplated ship canal through the territory of Nicaragua to connect the Atlantic and Pacific oceans, and at the same time to insure the same protection to the contemplated railways or canals by the Tehuantepec and Panama routes, as well as to every other interoceanic communication which may be adopted to shorten the transit to or from our territories on the Pacific.

It will be seen that this treaty does not propose to take money from the public Treasury to effect any object contemplated by it. It yields protection to the capitalists who may undertake to construct any canal or railway across the Isthmus, commencing in the southern part of Mexico and terminating in the territory of New Granada. It gives no preference to any one route over another, but proposes the same measure of protection for all which ingenuity and enterprise can construct. Should this treaty be ratified, it will secure in future the liberation of all Central America from any kind of foreign aggressions.

At the time negotiations were opened with Nicaragua for the construction of a canal through her territory I found Great Britain in possession of nearly half of Central America, as the ally and protector of the Mosquito King. It has been my object in negotiating this treaty not only to secure the passage across the Isthmus to the government and citizens of the United States by the construction of a great highway dedicated to the use of all nations on equal terms,

we to maintain the independence and sovereignty of all the Central American Republics. The Senate will judge how far these objects have been effected.

If there be any who would desire to seize and annex any portion of the territories of these weak sister republics to the American Union or to extend our dominion over them, I do not concur in their policy, and I wish it to be understood, in reference to that subject, that I share the views entertained, so far as I know by all my predecessors.

The principles by which I have been regulated in the negotiation of this treaty are in accordance with the sentiments well expressed by my immediate predecessor on the 10th of February, 1847, when he communicated to the Senate the treaty with New Granada for the protection of the railroad at Panama. It is in accordance with the whole spirit of the resolution of the Senate of the 3d of March, 1845, referred to by President Polk, and with the policy adopted by President Jackson immediately after the passage of that resolution, who dispatched an agent to Central America and New Granada "to open negotiations with those governments for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as might undertake to open a communication between the Atlantic and Pacific oceans by the construction of a ship canal across the isthmus which connects North and South America, and of securing forever by such stipulations the free and equal right of navigating such canal to all such nations on the payment of such reasonable tolls as might be established to compensate the capitalists who should engage in such undertaking and complete the work."

I also communicate herewith a copy of the correspondence between the American Secretary of State and the British plenipotentiary at the time of concluding the treaty. Whatever honor may be due to the party first proposing such a treaty justly belongs to the United States. My predecessor, in his message of the 10th of February, 1847, referring to the treaty with New Granada for the protection of the Panama Railroad, observes that--

Should the proposition thus tendered be rejected we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being the first among the nations in concluding such an arrangement upon the Government either of Great Britain or France. That either of these Governments would em-

but to maintain the independence and sovereignty of all the Central American Republics. The Senate will judge how far these objects have been effected.

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brace the offer cannot be doubted, because there does not appear to be any other effectual means of securing to all nations the advantages of this important passage but the guaranty of great commercial powers that the Isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans cannot be suffered to depend upon the wars and revolutions which may arise among different nations.

Should the Senate in its wisdom see fit to confirm this treaty, and the treaty heretofore submitted by me for their advice in regard to its ratification negotiated with the State of Nicaragua on the 3d day of September last, it will be necessary to amend one or both of them, so that both treaties may stand in conformity with each other in their spirit and intention. The Senate will discover by examining them both that this is a task of no great difficulty.

I have good reasons to believe that France and Russia stand ready to accede to this treaty, and that no other great maritime state will refuse its accession to an arrangement so well calculated to diffuse the blessings of peace, commerce and civilization, and so honorable to all nations which may enter into the engagement.

Z. TAYLOR.

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

28th April, 1850.

(Sir H. L. Bulwer to Lord Palmerston.)

[*Extract.*]

WASHINGTON, April 28, 1850. (Received May 14.)

In my previous dispatch of this day I have informed your lordship of my having concluded a treaty with Mr. Clayton respecting the construction of a ship communication between the two oceans of the Atlantic and Pacific, and I have there stated to your lordship that there are some slight differences between the original project transmitted home on the 3d of February and the treaty now concluded.

I have thought it better to explain the nature of these changes, and my reasons for adopting them, in a separate dispatch; and I shall do so, rather according to the manner and time in which they were made, than according to the place in the convention in which they occur.

The first, therefore, I shall refer to is in Article VI, to which are added the words :

And should any differences arise as to right or property over the territory through which the said canal shall pass between the states or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

This addition, in reconsidering the matter, was deemed, both by myself and Mr. Clayton, an advantage to the treaty, and a sort of guarantee against future unfriendly disputes between the two governments as to the subject referred to.

The second addition agreed to is in Article VII, to which has been added :

And if any persons or company should already have, with any state through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in the convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object ; and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed, that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of Great Britain and the United States, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking, it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of Great Britain and the United States shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

I should here state to your lordship that, when the treaty was placed under the notice of the chairman of the Committee on Foreign Relations in the Senate, a gentleman of great weight and of the more importance since he belongs to the dominant party in the chamber of which he is a member, considered that it would only be fair that the two governments should give an open and avowed

preference by name to an American company which had first conceived and taken steps to carry out the proposed undertaking. This I objected to; but I deemed there could be no objection to giving to any company, under certain fair conditions such as are specified, the preference that was sought, although those conditions applied to a company that was American. In this manner a sort of compromise was effected.

The third alteration adopted is in Article VIII, the whole of which article is remodelled.

This alteration, I must say, was the effect of the joint opinion of Mr. Clayton and myself, both thinking that the article, as amended, was better and more clear, referring especially to two lines of communication which seem the most likely to be adopted, and securing thereby a considerable support to the convention in general, many persons being interested in the Panama and Tehuantepec projects.

The only other change which it is worth while remarking upon occurs the first in the body of the treaty, but was the last mooted or adopted. Your lordship will perceive it by casting your eye over Article I, in which a passage is inserted between the words "Central America," which close the second line in the page, down to "nor will Great Britain or the United States take advantage of any," &c., which occurs in the third line from the bottom of the said page, some few words having been left out to admit of the aforesaid passage. The manner in which this change was effected was as follows:

It struck me that the declaration or note mentioned by your lordship bound our government as to its protection over the Mosquitos, but did not bind the United States Government as to its protection over such other states, even Nicaragua, as it might hereafter form an especial alliance with. Moreover, the pledge that we would not do covertly what we had declared we would not do directly, seemed to me a pledge that it would be more suitable and becoming that both parties should take than that one alone should take.

With these views instead of presenting the note, I embodied in the treaty the substance of the declaration given by your lordship to Mr. Lawrence, constructing that declaration so as to apply to any government or people we do or may protect, and also to any government or people that the United States Government do or may protect. Some discussion took place on this matter, but finally it was so arranged.

As the case now stands it is clearly understood that Her Majesty's Government holds by its own opinions already expressed as to Mosquito, and that the United States does not depart from its opinions also already expressed as to the same subject; but the main question of the canal being settled on an amicable basis, and the future relations of the United States and Great Britain being regulated in all other parts of Central America, the discussion of this difference, which has lost its great practical importance, is avoided in an arrangement meant to be as much as possible of a perfectly friendly character.

I need not say that should your lordship wish to make any further statement as to the views of Her Majesty's Government with respect to the protectorate of Mosquito, that statement can still be made; nothing in the present convention is affirmed thereupon, but nothing is abandoned.

I trust that after this statement your lordship will approve of the course I have pursued.

There are various small and verbal differences between the original project and treaty which I have not enumerated, because they leave the general sense the same, and have only been adopted to express that sense more clearly. The word "fortify" is inserted between "occupy and colonize" in the second line from the bottom of the page in Article I, but this word had been used in your lordship's note to Mr. Lawrence, and only imposes in that place an obligation which had already been agreed to and stated elsewhere. The word "blockade" is inserted before the words "detention or capture" in Article II, at the request of several influential persons, but only signifies what detention and capture had already expressed.

H. L. BULWER.

VISCOUNT PAMMERSTON, G. C. B.

[*The above letter appears as Document 25, in Special Message of President, 29th July, 1882, pp. 85-87.*]

31st Congress, 1st Session.
House Ex. Doc. No. 75.
In Vol. 10.

29th April, 1850.

(Sir H. L. Bulwer to Mr. Clayton.)

BRITISH LEGATION, April 29, 1850.

SIR: I have the honor to inform you that her Majesty's government have entirely approved of the language which I held to you

with reference to your inquiry as to whether it was true that Mr. Chatfield had made a treaty with Costa Rica taking that republic under British protection, and of the assurance I then gave you that I did not believe, from the opinion which I had heard her Majesty's Secretary of State for Foreign Affairs express, that he could have authorized Mr. Chatfield to make any treaty placing the republic of Costa Rica under the protection of her Majesty.

I have been furthermore instructed to state to you that the British government has not made, and has no intention of making, any treaty or arrangement with Costa Rica for taking that State under British protection. I am also desired to add that it would be contrary to the fixed and settled policy of Great Britain to entangle herself by any engagement to protect distant States, over whose policy and conduct it would be impossible for the British government to exercise any effective control. Such a protectorate would confer no possible advantage on Great Britain, and might become the source of many embarrassments to her.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

H. L. BULWER.

Hon. J. M. CLAYTON, &c., &c., &c.

[*The above letter appears as Document 46, in Special Message of President, 18th July, 1850, p. 323.*]

31st Congress, 1st Session.
House Ex. Doc. No. 75.
In Vol. 10.

30th April, 1850.

(Mr. Clayton to Sir H. L. Bulwer.)

DEPARTMENT OF STATE,
WASHINGTON, April 30, 1850.

SIR: I have the honor to acknowledge the receipt of your note of the 29th instant, informing me that her Britannic Majesty's government have entirely approved of the language which you held and the assurance which you gave to me with reference to my inquiry as to whether it was true that Mr. Chatfield had made a treaty with Costa Rica taking that republic under British protection; that you have been furthermore instructed to state to me that your government has not made, and has no intention of making, any treaty or arrangement with Costa Rica of that kind; and that you are also

directed to add that it would be contrary to the fixed and settled policy of Great Britain to entangle herself by any engagement to protect distant States over whose policy and conduct it would be impossible for her to exercise any effective control.

I take pleasure in expressing the satisfaction with which this government has received this friendly assurance from that of her Britannic Majesty, the more especially as it cannot fail to strengthen the bonds of amity now existing between our respective countries

I avail myself of this opportunity to renew to you, sir, the assurance of my distinguished consideration.

JOHN M. CLAYTON.

Right Hon. Sir H. L. BULWER,

&c., &c., &c.

[*The above letter appears as Document 47, in Special Message of President, 18th July, 1850, pp. 323-324.*]

53d Congress, 2d Session.
House Misc. Doc. Vol. 37.
Messages and Papers of the Presidents.
In Vol. V., p. 44.

6th May, 1850.

(Special Message of the President of the United States.)

WASHINGTON, May 6, 1850.

To the Senate of the United States :

I transmit to the Senate for its consideration with a view to ratification, a consular convention between the United States and the Republic of New Grenada, signed in this city on the 4th day of this month by the Secretary of State on the part of the United States and by Señor Don Rafael Rivas, chargé d'affaires of New Grenada on the part of that Republic.

Z. TAYLOR.

53d Congress, 2d Session.
House Misc. Doc. Vol. 37.
Messages of the Presidents.
Vol. V., p. 45.

8th May, 1850.

(Special Message of the President of the United States.)

WASHINGTON, May 8, 1850.

To the Senate of the United States :

With reference to the convention between the United States and Her Britannic Majesty relative to interoceanic communication by

the way of Nicaragua, recently submitted to the Senate, I transmit a copy of a note, under date the 29th ultimo, addressed to the Secretary of State by Sir Henry L. Bulwer, Her Britannic Majesty's minister here, and of Mr. Clayton's reply, under date the 30th ultimo. Intelligence received from the chargé d'affaires of the United States in Central America and from other quarters having led to an apprehension that Mr. Chatfield, Her Britannic Majesty's minister in that country, had concluded a treaty with the Government of Costa Rica, placing that State under the protection of the British Government, I deemed it my duty to cause inquiries upon the subject to be addressed to Her Majesty's Government through Sir Henry L. Bulwer. The note of that functionary communicates the answer to those inquiries and may be deemed satisfactory, both from the denial of the fact that any such treaty has been concluded and from its positive disavowal on behalf of the British Government of the policy intended to be subserved by such treaties.

Z. TAYLOR.

NOTE.—*There is no trace in the records of the note from the British Minister (Sir H. L. Bulwer) nor reply of Mr. Clayton, Secretary of State, which the President transmitted with the above message. The communications were, in all probability, never entered except in the Executive Journal of which only reprints from 1789–1829 exist.*

32d Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

30th May, 1850.

(Mr. Lawrence to Mr. Clayton.)

[No. 56.]

LEGATION OF THE UNITED STATES,

LONDON, May 30, 1850.

SIR; I have this moment returned from an interview with Lord Palmerston. He says he has examined the treaty, and approves of it, and that this government will ratify it; that he had instructed Sir Henry Bulwer further on some points, such as giving to Costa Rica the port of Greytown, and making provision for certain territory for the uses of the Mosquito Indians, &c, &c. Not having seen the treaty, I could not discuss its provisions. Besides Lord Palmerston is now too busy to talk much about it. I have arranged for a further interview, when I shall take the liberty of communicating some of the views expressed in your private letters, and shall

write you again. I do not apprehend that there is any difficulty in making a complete settlement of the whole question touching our interests in Central America. If questions should arise respecting British rights under the protectorate, I think good might come showing, in a friendly way, my despatch No. 44 to the cabinet or Lord Palmerston.

It seems to me that some plan should be devised for settling the boundaries of Nicaragua and Costa Rica. They are both ready to submit their differences to arbitrators, to be appointed by Great Britain and the United States.

I have the honor to be, very respectfully, sir, your obedient servant,

ABBOTT LAWRENCE.

Hon. JOHN M. CLAYTON,
Secretary of State, Washington.

[*The above letter appears as Document 37, in Special Message of President, 21st January, 1853, p. 100.*]

32d Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

7th June, 1850.

(Mr. Lawrence to Mr. Clayton.)

[No. 58.]

LEGATION OF THE UNITED STATES,
LONDON, July 7, 1850.

SIR: I had not the honor of receiving any communication from you by last mail.

Since my despatch of last week, I have had an interview with Lord Palmerston upon the subject of establishing some form of government over the Mosquito territory. He informed me that Sir Henry Bulwer had instructions to propose (as I have already acquainted you) a plan giving to the Indians a specific territory, over which they may exercise sovereignty, placing San Juan in the hands of Costa Rica, &c., &c. You have doubtless heard all this from Sir Henry Bulwer.

The boundaries between Costa Rica and Nicaragua ought to be settled at once, and I can now see no way in which this can be done, except through the good offices, mediation or arbitration of Great Britain and the United States. Lord Palmerston appears to be much pleased with the treaty, and says it will be satisfactory to this

government. I touched upon the distance from the shore where captures should be valid on the ocean. He asked me whether I had come to any conclusion on that point. I answered that I had not, but it had occurred to me (without, however, consulting any one), that about one hundred and fifty miles should be the distance. To this he rejoined that it seemed reasonable, but he would consult naval men—the lords of the admiralty—on that point. I am inclined to believe that every nation in Europe will join in this treaty of guaranty. To the United States will belong the honor of having taken the first step in this great international work, and of having brought together the different nations of the earth for its accomplishment. Great Britain now desires to finish everything relating to Central America, so far as the United States is concerned. All its agents will be withdrawn from the Mosquitos. Yet I cannot but fear that British subjects will undertake to protect the Mosquito King if the sovereignty over any portion of Central America is left vested in him, and that hereafter we may have trouble through American traders who will visit Bluefields and other parts of that territory. You have better means of information than I on this point. If you have not already provided against this, I hope that, by a supplemental treaty, you will define exactly the respective rights of the several parties claiming upon the isthmus, so that the possibility of future difficulty may be avoided.

I have the honor to be, very respectfully, your obedient servant,

ABBOTT LAWRENCE.

Hon. JOHN M. CLAYTON,
Secretary of State of the United States.

[*The above letter appears as Document 38, in Special Message of President, 21st January, 1853, p. 101.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

17th June, 1850.

(Mr. Clayton to the Supreme Director of Nicaragua.)

DEPARTMENT OF STATE,
WASHINGTON, June 17, 1850.

SIR: I address this note directly to your excellency, because it is probable that before it shall have reached your capital Mr. Squier,

the chargé d'affaires of the United States to Guatemala, will have left Central America on his return to the United States.

Immediately after the arrival of Señor Eduardo Carcache, the Nicaraguan chargé d'affaires in this country, I earnestly entreated him to procure from his own government the most ample instructions to alter the treaty, negotiated with your government by Mr. Squier, in such way as to him, upon full view of all facts, should seem most conducive to the interests and prosperity of Nicaragua. Negotiations affecting the sovereignty of Nicaragua and her highest interests being in progress between the government of the United States and Great Britain, during the past year, have terminated in a treaty now ratified by both parties, of which I send you a copy, to the end that you may see the disposition of the people of the United States and their government in regard not only to Nicaragua but all Central America. This treaty has been acceded to by Great Britain, at the instance of the United States, and we are now, in pursuance of its provisions, making progress in obtaining the accession of all the great maritime states of Europe to the same treaty. It is not doubted that all the states of Central America will co-operate with us most heartily in the great objects we have in view (and which caused us to enter into these guarantees), to facilitate and aid by every means the construction of interoceanic communication across the isthmus which divides northern from southern America. Under these guarantees the Central American republics, united in one confederation and union for their common defence and happiness, will, it is ardently hoped, assume a rank among the nations of the earth, realizing the proudest anticipations of those who have made their brilliant destiny a study. The best wishes of this government towards Central America were conveyed to Nicaragua by our chargé d'affaires at Guatemala. Proofs of friendship, more solid than any professions, are conveyed to you in the enclosed treaty. In return for this we expect the confidence of yours, as well as of every other Central American State. If that confidence be withheld, all our efforts in behalf of your country will be fruitless. It is impossible for us to communicate with a minister at Leon. Experience has proved that my communications to Mr. Squier are addressed to him in vain, so defective are your mails and means of communication with San Juan de Nicaragua. The President has given him leave of absence, at his own request, and in a few days he will return to the United States. Señor Carcache has no instructions except to exchange the ratifications of the treaty

negotiated by your government with Mr. Squier, which is so defective as to its duration and its grants of exclusive rights to the United States, not desired by us, that it cannot be ratified precisely as it stands, unless we repudiate the treaty with Great Britain. It is indispensable that the two treaties should in all respects conform with each other, and to this end Señor Carcache, or some other suitable person, should be immediately invested by your government with *full powers to make a new treaty or change the old one* as I have described. More than four months have elapsed since Señor Carcache was fully informed of this. He states to me that he has written to you for new and more ample instructions, and that he has received nothing in reply. In consequence of this misfortune the interests of Nicaragua are endangered at this critical period. If ample powers are not speedily given to some person to negotiate in your behalf, the Senate of the United States, whose ratification is necessary to the treaty with your government, may even be compelled to drop it. Although I offered to negotiate with Señor Carcache *with the express understanding that his government should be bound by nothing in our treaty which it should not hereafter approve*, yet he utterly refused to commence any negotiation without instructions.

* * * * *

Accept, sir, the assurances, &c.,

JOHN M. CLAYTON.

To the SUPREME DIRECTOR
Of the State of Nicaragua.

[The above letter appears as Document 1, in Special Message of President, 14th February, 1856, pp. 3-5.]

31st Congress, 1st Session.
House Ex. Doc. No. 75.
In Vol. 10.

25th June, 1850.

(Mr. Squier to Mr. Clayton.)

[No. 34.]

LEGATION OF THE UNITED STATES,
SAN JUAN DE NICARAGUA, June 25, 1850.

SIR: I have the honor to acknowledge the receipt of your No. 8, by hand of Mr. James Cross, conveying the announcement of the conclusion of the negotiations with Great Britain in respect to the proposed ship-canal, and other dependant matters, and also granting

me the indulgence which I had previously asked, for the purpose of visiting the United States. A large mail destined for me was lost some days ago off Salt Creek, by the wreck of the barque *Lucy Ellen*. This catastrophe was alone wanting to fill up the list of accidents which have befallen the correspondence of the department with this legation.

In consequence of the information contained in your despatch, I have addressed the enclosed letter (A) to the government of Honduras, in relation to the island of Tigre, and the pending convention with that State.

I have also the honor to enclose copies of the following correspondence:

B, 1 and 2—To the government of San Salvador, acknowledging reception of the official action of the assembly of that State upon the pact of union of the 8th of November, 1849, with a translated copy of the reply of the government of Nicaragua, to which a copy of the above letter was addressed.

C, 1 and 2—Copy of a note to the Secretary of State of Nicaragua, announcing my departure for the United States, under my leave of absence, with a translated copy of the reply thereto.

I am informed that the State of Honduras has unanimously ratified the pact of union, and the national representation will therefore meet in the city of Chinendaga on the first of September.

Begging to convey my grateful acknowledgments for the indulgence which the department has extended to me, and hoping to report myself in Washington as early as the 12th of July, I am, sir your obedient servant,

E. GEO. SQUIER.

Hon. JOHN M. CLAYTON,
Secretary of State.

[INCLOSURE A.]

LEGATION OF THE UNITED STATES,
GRENADA, June 21, 1850.

SIR: I have great pleasure in enclosing to you a copy of the treaty recently concluded between the United States and Great Britain, in respect to the proposed ship-canal, Mosquito coast, and other matters of high interest to the Central American States. It will be perceived that, by this treaty, Central America will be henceforth relieved from any danger on the

score of foreign territorial aggression. The precautionary measures, therefore, which have been taken, in respect to the Tigre, are no longer necessary; and as the canal company are now free to make such arrangements with Honduras as may be for the mutual interest of both, the special provisions in the treaty in respect to the canal may be dispensed with, and the treaty reduced to the ordinary form of a treaty of commerce, amity, and friendship. As the time fixed for the ratification has expired, it may be well to open a new convention. This may be done upon my return in September. The flag of the United States will, therefore, be considered as withdrawn from the Tigre, from the date of the reception of this communication.

I cannot allow this opportunity to pass without conveying to your excellency my warmest congratulations upon the result of the negotiations between the United States and Great Britain. In the felicitous language of the Secretary of State of the United States, in conveying to me the announcement of the final conclusion of this negotiation, "Central America, capable as she is of sustaining the population of a vast empire, united in herself, and exerting her best energies for the development of her great resources, may date the commencement of a career of unexampled prosperity from the ratification of this treaty." It is only necessary to add that the treaty has been ratified.

With high consideration, I have the honor to be, sir, your very obedient servant.

E. GEO. SQUIER.

To the SECRETARY FOR FOREIGN AFFAIRS
of the Republic of Honduras.

[INCLOSURE B—1.]

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
LEON DE NICARAGUA, April 18, 1850.

SIR: I have great satisfaction in acknowledging the receipt of the decree of the government and Congress of San Salvador, of the date of February 28, ratifying the convention for a union of the States celebrated in this city on the 12th of November, 1849.

Although it is the established policy of the United States to abstain from interference in the concerns of other nations, still, whenever her influence may with propriety be exerted for beneficial ends—the promotion of peace, order, and the general good—she regards it as her duty to exert it. It was under this view that my predecessor, whose instructions are made part of my own, was "instructed by his counsel and advice, should suitable occasion offer, to promote the reunion of the States which formed the federation of Central America. In a federal union amongst themselves," these instructions

observe, "consists their strength. They will thus avoid domestic dissensions, and render themselves respected by the world."

On the 1st of August, 1849, believing that the proper occasion had arrived, I addressed a letter to the ministry under your charge, conveying the views of my government. But I hardly flattered myself that I should so soon have the satisfaction of announcing to that government, not only that the initiatives to a federal union had been taken, but that a definite plan of Union had received the constitutional sanction of one sovereign State. The example of San Salvador, there is every reason to believe, will be speedily followed by Honduras and Nicaragua; and I am convinced that the remaining States of the old federation will not fail soon to discover that their true interests will be promoted by an adhesion to the new republic.

This event, in conjunction with the new commercial era of the establishment of regular steam-communication on the Pacific coast with Panama and California, and the immediate opening of a route of transit across this isthmus, and with it increased facilities of communication and trade with the United States and Europe—not to avert to the prospective great inter-oceanic canal—will not fail to give new importance to this country, infuse new energy into her people, and make her great and prosperous. By a happy combination of circumstances, it also seems probable that the foreign relations of this country, so long a source of disquiet, alarm and danger, will be speedily adjusted in an honorable and satisfactory manner. The period is then most fortunate for the proposed union; and a union effected under such auspices, in a spirit of concession, of forgetfulness of past errors, and patriotic devotion to the true interests of the new republic, cannot fail to be enduring and successful in all the great objects of government.

Improving this opportunity to renew the assurances of my high personal regard and consideration, I am, sir, your obedient servant,

E. GEO. SQUIER.

To the SECRETARY FOR FOREIGN AFFAIRS
of San Salvador.

[INCLOSURE B—2.]

(*Translation.*)

HOUSE OF THE GOVERNMENT,
MANAGUA, May 11, 1850.

SIR: The Supreme Director of Nicaragua has received, with the liveliest emotions of pleasure, a copy of your communication, addressed to the governor of San Salvador, of the date of the 18th of April, ultimo, stamped as it

is with the pure sentiments of a great soul and an American heart; and he recognises the penetration with which you indicate the necessity of the adoption of the pact of the 8th of November—which, I am happy to add, was unanimously ratified by the Assembly of Nicaragua, in a public decree, a copy of which I have the honor herewith to submit.

The Supreme Director sincerely hopes that you will continue your friendly offices, to the end that the national convention of Central America shall obtain the adhesion of the several States, in conformity with the philanthropic desires of the President of the United States.

Desiring your excellency to accept, &c.,

S. SALINAS.

His Excellency E. G. SQUIER, &c., &c., &c.

[INCLOSURE C 1.]

LEGATION OF THE UNITED STATES,

GRENADA, June 21, 1850.

SIR: I have the honor to inform you that I have received leave of absence from my government, for the purpose of enabling me to visit the United States. Until my return, official communications designed for this legation may be intrusted to the charge of J. W. Livingston, Esq., United States consul at this point.

I cannot permit this opportunity to pass without conveying to you my warm acknowledgements for the distinguished courtesy and consideration with which I have been received and treated by your government, and the authorities and people of Nicaragua, in all my intercourse with them, public and private. And I shall not fail to represent to my Government the fraternal feeling and sympathy which exist towards it among all classes of Nicaraguans, and the high anticipations which have been formed from the relationship which is every day becoming more intimate between the two countries. It has been my aim to place that relationship upon a firm and enduring basis, worthy of the age in which we live, and in strict accordance with the principles which should govern our respective countries, not less as republican than as American States. If, with the cordial co-operation of your government, and the support of my own, I have in any way contributed to effect this grand object, I shall experience a satisfaction which shall prove an ample reward for any misrepresentation I have in consequence incurred.

Anticipating a speedy return, and renewal of existing agreeable relations, I am, sir, with high consideration, your obedient servant.

E. GEO. SQUIER.

His Excellency the SECRETARY FOR FOREIGN AFFAIRS

of Nicaragua.

[INCLOSURE C 2.]

(Translation.)

HOUSE OF THE GOVERNMENT,

LEON, June 22, 1850.

SIR: The Supreme Director of the State has seen with deep sensation your communication of yesterday, announcing your return to the United States, under leave of absence from your government. The dignity, patriotism, and faithfulness with which you have discharged the duties of your mission, have been in the highest degree gratifying and satisfactory to my government; and it congratulates you in having received, as you have deserved, the cordial esteem of the functionaries and people of Nicaragua, as well for the new hopes of prosperity to which you have given birth, as for the personal qualities which adorn you. Your presence in Nicaragua has made reappear the national spirit, and raised the country from that chaos in which it has for so many years been plunged.

The identity of principles which exists between both countries, the natural and continental bonds which unite them, and, above all, the reciprocal interests which a cultivation of closer relations must produce, lead my government to hope that the dignified President of the United States will lend every sanction to the ideas and measures which your excellency shall recommend to be carried out here. My government regrets that you should leave the State even for the short period proposed; but as your departure seems settled, it desires to manifest to you and to the illustrious President of the United States, and the people thereof, the sentiments of eternal gratitude felt by the government and people of Nicaragua for the exertions which have been made in their behalf, and in vindication of their sacred rights.

Wishing you a safe and speedy return, I am, &c.,

S. SALINAS.

His Excellency E. G. SQUIER, &c., &c.

[The above letter and inclosures appear as Document 48, Inclosures A, B, and C, in Special Message of President, 18th July, 1850, pp. 324-328.]

Messages and Documents.
1855-1856, Part I.
P. 118.

29th June, 1850.

(Declaration made by Sir Henry Bulwer at the Department of State June 29th, 1850, prior to the exchange of the ratification of the Clayton-Bulwer Treaty.)

DECLARATION.

In proceeding to the exchange of the ratifications of the convention signed at Washington on the 19th of April, 1850, between her

Britannic majesty and the United States of America, relative to the establishment of a communication by ship canal between the Atlantic and Pacific oceans, the undersigned, her Britannic majesty's plenipotentiary, has received her majesty's instructions to declare that her majesty does not understand the engagements of that convention to apply to her majesty's settlement at Honduras, or to its dependencies. Her majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

Done at Washington the 29th day of June, 1850.

H. L. BULWER.

[*The above Declaration appears as Document 26, in Special Message of President, 29th July, 1882, p. 87.*]

Messages and Documents.
1855-1856, Part 1.
P. 119.

4th July, 1850.

(Mr. Clayton to Sir H. L. Bulwer.)

DEPARTMENT OF STATE,

WASHINGTON, July 4, 1850.

SIR: I have received the declaration you were instructed by your government to make to me respecting Honduras and its dependencies, a copy of which is hereto subjoined.

The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your government; and it was neither understood by them, nor by either of us, (the negotiators,) to include the British settlement in Honduras, (commonly called British Honduras, as distinct from the State of Honduras,) nor the small islands in the neighborhood of that settlement which may be known as its dependencies. To this settlement and these islands the treaty we negotiated was not intended by either of us to apply. The title to them it is now, and has been my intention throughout the whole negotiation, to leave as the treaty leaves it, without denying, affirming, or in any way meddling with the same, just as it stood previously. The chairman of the committee on foreign relations of the Senate, the Honorable William R. King, informs me that "the Senate perfectly understood that the treaty did

not include British Honduras." It was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies. The difficulty that now arises seems to spring from the use, in our convention, of the term "Central America," which we adopted because Viscount Palmerston had assented to it and used it as the proper term, we naturally supposing that, on this account, it would be satisfactory to your government; but if your government now intend to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides, to which, at present, we have no means of resort, and which it is certain we could not obtain before the term fixed for exchanging the ratifications would expire. It is not to be imagined that such is the object of your government, for not only would this course delay, but absolutely defeat the convention.

Of course, no alteration could be made in the convention as it now stands, without referring the same to the Senate; and I do not understand you as having authority to propose any alteration. But on some future occasion, a conventional article, clearly stating what are the limits of Central America, might become advisable.

There is another matter, still more important, which the stipulations of the convention direct that we shall settle, but which you have no instructions now to determine; and I desire you to invite the attention of your government to it—"the distance from the two ends of the canal" within which "vessels of the United States or Great Britain, traversing the said canal, shall, in case of war between the contracting parties, be exempted from blockade, detention or capture by either of the belligerents." The subject is one of deep interest, and I shall be happy to receive the views of your government in regard to it, as soon as it may be convenient for them to decide upon it.

I renew to you, sir, the assurances of the distinguished consideration with which I have the honor to be your obedient servant,

JOHN M. CLAYTON.

To the Right Hon. Sir HENRY L. BULWER, &c., &c., &c.

48th Congress, 1st Session.
Senate Ex. Doc. No. 26.
In Vol. 1.

4th July, 1850.

(Sir H. L. Bulwer to Mr. Clayton.)

BRITISH LEGATION, July 4, 1850.

SIR: I understand the purport of your answer to the declaration, dated the 29th June, which I was instructed to make to you on behalf of Her Majesty's Government, to be that you do not deem yourself called upon to mark out at this time the exact limits of Her Majesty's settlement at Honduras nor of the different Central American States, nor to define what or what are not dependencies of the said settlement; but that you fully recognize that it was not the intention of our negotiation to embrace in the treaty of the 19th April whatever is Her Majesty's settlement at Honduras not whatever are the dependencies of that settlement, and that Her Majesty's title thereto subsequent to the said treaty will remain just as it was prior to that treaty, without undergoing any alteration whatever in consequence thereof.

It was not the intention of Her Majesty's Government to make the declaration I submitted to you more than a simple affirmation of the fact, and consequently I deem myself now authorized to exchange Her Majesty's ratification of the treaty of the 19th April for that of the President of the United States.

I shall take the earliest opportunity of communicating to Her Majesty's Government the desire which you express to have determined the distance from the two ends of the canal within which the vessels of United States or Great Britain traversing the said canal shall, in the case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents, and I will duly inform her Majesty's Government of the interest which you take in this question.

I await, &c.,

H. L. BULWER.

[The above letter appears as part of Document 1, in *Special Message of President*, 19th April, 1883, p. 2.]

Messages and Documents.
1855-1856. Part I.
P. 113.

5th July, 1850.

(Convention between the United States of America and her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes. Concluded April 19, 1850; ratified by the United States May 23, 1850; exchanged July 4, 1850; and proclaimed by the United States July 5, 1850.)

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

[A PROCLAMATION.]

Whereas a convention between the United States of America and her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes, was concluded and signed at Washington, on the 19th day of April last, which convention is, word for word, as follows:

Convention between the United States of America and her Britannic Majesty.

(For copy of Convention. See herein page 585.)

And whereas, the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the fourth instant, by John M. Clayton, Secretary of State of the United States, and the Right Honorable Sir Henry Lytton Bulwer, envoy extraordinary and minister plenipotentiary of her Britannic Majesty, on the part of their respective governments. Now, therefore, be it known, that I, Zachary Taylor, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and
[L. S.] caused the seal of the United States to be
affixed.

Done at the city of Washington, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

Z. TAYLOR.

By the President:

J. M. CLAYTON, Secretary of State.

Messages and Documents.
1855-1856. Part I.
P. 113.

5th July, 1850.

(Convention between the United States of America and her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes. Concluded April 19, 1850; ratified by the United States May 23, 1850; exchanged July 4, 1850; and proclaimed by the United States July 5, 1850.)

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

[A PROCLAMATION.]

Whereas a convention between the United States of America and her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes, was concluded and signed at Washington, on the 19th day of April last, which convention is, word for word, as follows:

Convention between the United States of America and her Britannic Majesty.

(For copy of Convention. See herein page 585.)

And whereas, the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the fourth instant, by John M. Clayton, Secretary of State of the United States, and the Right Honorable Sir Henry Lytton Bulwer, envoy extraordinary and minister plenipotentiary of her Britannic Majesty, on the part of their respective governments. Now, therefore, be it known, that I, Zachary Taylor, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and
[L. S.] caused the seal of the United States to be
affixed.

Done at the city of Washington, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

Z. TAYLOR.

By the President:

J. M. CLAYTON, Secretary of State.

Messages and Documents.
1855-1856, Part 1.
P. 118.

5th July, 1850.

(Memorandum, touching Sir Henry Bulwer's declaration, filed by Mr. Clayton
in the Department of State at Washington, July 5, 1850.

[*Memorandum.*]

DEPARTMENT OF STATE,
WASHINGTON, July 5, 1850.

The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote him my note of the 4th of July, acknowledging that I understood British Honduras was not embraced in the treaty of the 19th day of April last; but at the same time carefully declining to affirm or deny the British title in their settlement or its alleged dependencies. After signing my note last night, I delivered it to Sir Henry, and we immediately proceeded, without any further or other action, to exchange the ratifications of said treaty.* The consent of the Senate to the declaration was not required, and the treaty was ratified as it stood when it was made.

JOHN M. CLAYTON.

N. B.—The rights of no Central American State have been compromised by the treaty or by any part of the negotiations.

[*The above memorandum appears as Document 27, in Special Message of President, 29th July, 1882, pp. 87-88.*]

31st Congress, 1st Session.
House Ex. Doc. No. 75.
In Vol. 10.

18th July, 1850.

(Special Message of the President of the United States.)

To the House of Representatives of the United States :

I herewith transmit to the House of Representatives, in compliance with the request contained in their resolution of the 24th day of January last, the information asked for by that resolution, relating to certain proceedings of the British government in the forcible seizure and occupation of the island of Tigre; also, all the "facts, circumstances and communications, within the knowledge of the Executive, relative to any seizure or occupation, or attempted

* The blank in the declaration was never filled up.

seizure or occupation, by the British government, of any port, river, town, territory or island belonging to, or claimed by any of the States of Central America."

The resolution of the House speaks of the island of Tigre, in the State of Nicaragua. I am not aware of the existence of any such island in that State, and presume that the resolution refers to the island of the same name in the gulf of Fonseca, in the State of Honduras.

The concluding part of the resolution, requesting the President to communicate to the House all treaties not heretofore published which may have been negotiated with any of the States of Central America "by any person acting by authority of the late administration, or under the auspices of the present administration," so far as it has reference to treaties negotiated with any of those States by instructions from this government, cannot be complied with, inasmuch as those treaties have not yet been acted upon by the Senate of the United States, and are now in the possession of that body, to whom, by the constitution, they are directed to be transmitted for advice in regard to their ratification.

But, as its communication is not liable to the same objection, I transmit, for the information of the House, a copy of a treaty in regard to a ship-canal across the isthmus, negotiated by Elijah Hise, our late chargé d'affaires in Guatemala, with the government of Nicaragua, on the 21st day of June, 1849, accompanied by copies of his instructions from, and correspondence with, the Department of State.

I shall cheerfully comply with the request of the House of Representatives to lay before them the treaties negotiated with the States of Central America, now before the Senate, whenever it shall be compatible with the public interest to make the communication. For the present, I communicate herewith a copy of the treaty with Great Britain, and of the correspondence between the American Secretary of State and the British plenipotentiary at the time it was concluded. The ratifications of it were exchanged at Washington on the fourth day of July instant.

I also transmit the report of the Secretary of State, to whom the resolution of the House was referred and who conducted the negotiations, relative to Central America, under the direction of my lamented predecessor.

MILLARD FILLMORE.

WASHINGTON, July 18, 1850.

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(Report of the Secretary of State.)

in compliance with the resolution of the House of Representatives, requesting the President of the United States to communicate to that body, “ provided the publication thereof be not prejudicial to the public interest, all such information as may be within the knowledge of the Executive department, relative to the alleged extraordinary proceedings of the English government in the forcible seizure and occupation of the island of Tigre, in the State of Nicaragua, Central America; also, all facts, circumstances, or communications within the knowledge of the Executive, relative to any seizure, occupation, or attempted seizure or occupation, by the English government, of any port, river, town, territory, or island belonging to, or claimed by, any of the States of Central America; also, that he be requested to communicate to this House (if not incompatible with the public interest) all treaties not heretofore published, which may have been negotiated with any of the States of Central America, by any person acting by authority from the late administration, or under the auspices of the present Executive :” passed on the twenty-fourth day of January, A. D. eighteen hundred and fifty.

To the President of the United States :

The Secretary of State, to whom was referred by the President the resolution of the House of Representatives of the 24th of January last, in regard to Central America, has the honor to report the facts disclosed by the accompanying correspondence, which is respectfully submitted in response to the resolution.

The Secretary of State of the State of Nicaragua, Señor Buitrago, in a letter to the Hon. James Buchanan, late Secretary of State of the United States, dated the 12th day of November, 1847, solicited the friendly offices of this government to prevent an attack upon the town of San Juan de Nicaragua, then contemplated

by the British authorities as allies of the Mosquito King. This letter, a translation of which is herewith sent, distinctly charges that "the object of the British government in taking this key of the continent is, not to protect the small tribe of Mosquitos, but to establish their own empire over the Atlantic extremity of the line by which a canal connecting the two oceans is most practicable, insuring to them the preponderance on the American continent as well as their direct relations with Asia, the East Indies, and other important countries in the world." No answer appears to have been returned to this letter.

The President and Supreme Director of the State of Nicaragua, Don José Guerrera, also, on the 15th day of the same month, addressed a communication to President Polk, a translation of which is herewith sent, expressing an earnest desire to establish relations of amity and commerce with this government. In this the president of Nicaragua says: "My desire was carried to the utmost, on seeing in your message, at the opening of the 29th Congress of your republic, a sincere profession of political faith, in all respects conformable with the principles professed by these States, determined as they are to sustain with firmness the continental cause, the rights of America in general, and the non-interference of European powers in their concerns." He also announces the critical situation in which Nicaragua was then placed, and charges upon the Court of St. James "a well known design to establish colonies on the coast of Nicaragua, and to render itself master of the inter-oceanic canal, for which so many facilities are presented by the isthmus in that State." No reply was made to this letter.

On the 8th day of February, 1848, (six days after the negotiation, by Mr. Trist, of the treaty of Guadalupe Hidalgo,) the British ships of war *Alarm* and *Vixen* arrived at San Juan de Nicaragua, and took possession of that town, the name of which was changed to "Greytown." On the 12th of that month the British forces attacked and, after a sharp action, captured the port of Serapaqui, then garrisoned by the troops of Nicaragua. The war was ended on the 7th day of March, 1848, by articles of agreement concluded by Captain Granvill Gower Loch, the commander of the expedition, on the part of Great Britain, with the commissioner of the State of Nicaragua, a copy of which accompanies the note of the Minister of Foreign Affairs of Nicaragua to the Secretary of State of the United States, under date of the 17th of March, 1848.

It is provided by the third article of this agreement, "that Nica-

ragua shall not disturb the inhabitants of San Juan, understanding that any such act will be considered by Great Britain as a declaration of open hostilities." By the 6th article of the same agreement, it is provided that "these articles will not hinder Nicaragua from soliciting, by means of a commissioner to her Brittannic Majesty, a final arrangement of these affairs."

Mr. Salinas, the Secretary of Foreign Relations of Nicaragua, in his letter of the 17th of March, 1848, to Mr. Buchanan, the Secretary of State of the United States, fully sets forth the alleged aggressions of the British government, in seizing upon the territory of Nicaragua in the name of their ally, the Mosquito King. No answer was given to this letter.

Joseph W. Livingston, who, on the 28th day of October, 1847, was appointed consul of the United States for the port of San Juan de Nicaragua, addressed an official letter to Mr. Buchanan, Secretary of State, bearing date the 16th day of December of the same year, a copy of which is herewith submitted, representing that he had received information that the British government had it in contemplation to seize the port of San Juan in January following. In another communication dated the 8th day of April, 1848, Mr. Livingston states: "At the request of the Minister for Foreign Affairs, I transmit a package of papers containing the correspondence relative to the occupation of the port of San Juan by British forces, in the name of the Mosquito nation." No measures were adopted by the government of the United States in consequence of this information.

Elijah Hise, having been appointed chargé d'affaires of the United States to Guatemala, received his instructions on the 3d day of June, 1848, (a copy of which is herewith transmitted,) in which it is declared that "the independence, as well as the interests of the nations on this continent, require that they should maintain the American system of policy entirely distinct from that which prevails in Europe. To suffer any interference, on the part of the European governments, with the domestic concerns of the American republics, and to permit them to establish new colonies upon this continent, would be to jeopard their independence and to ruin their interests. These truths ought, everywhere throughout this continent, to be impressed on the public mind. But what can the United States do to resist such European interference, whilst the Spanish American republics continue to weaken themselves by division and civil war, and deprive themselves of the ability of doing anything for their

own protection." This last significant inquiry would seem to disclose the true reason for the omission to interfere, after notice of the course pursued by the British government in extending the limits of the Mosquito protectorate in Central America. These instructions, after stating the dissolution of the Central American republic, formerly composed of the five States of Nicaragua, Costa Rica, Honduras, San Salvador, and Guatemala, and their *continued separation*, authorize Mr. Hise to conclude treaties of commerce and navigation with the States of Guatemala and San Salvador; but conclude by saying that it was not deemed advisable to empower him to negotiate with the States of Nicaragua, Costa Rica or Honduras, "until he should have communicated to the Department of State more full and statistical information than that which it then possessed."

The States of Nicaragua, Costa Rica, and Honduras, are the only States of Central America whose consent or co-operation would, in any event, be necessary for the construction of the ship canal contemplated between the two oceans, by way of Lake Nicaragua.

In October, 1848, Mr. Osma, minister from Peru to Great Britain, while in Washington, gave information to Mr. Buchanan, Secretary of State, "that Señor Castro, the governor of Costa Rica, (as he had been credibly informed,) had offered to place that State under the protection of the British government." No instructions were given to Mr. Bancroft to remonstrate officially against this new protectorate, but he was informed that "in case the information given by Mr. Osma was well founded, then he should be vigilant in preventing unofficially, and by private conversation in the proper quarter, the acceptance by Great Britain of the proffered protectorate."

In pursuance of the sixth article of the agreement of the 7th of March, 1848, between the forces of Great Britain and the authorities of Nicaragua, Señor Francisco Castellon was appointed commissioner from the State of Nicaragua to Great Britain, and, on the 5th of November, 1848, while at Washington, on his way to London, he addressed a letter to Mr. Buchanan, then Secretary of State—a translation of which is herewith presented—asking this government to instruct its minister in London to sustain the rights of Nicaragua to her territory, and especially to the port of San Juan, claimed by Mosquito, expressing the hope that "the government of the Union, firmly adhering to its principle of resisting all foreign intervention in America, would not hesitate to order such steps to

be taken as might be effective, before things reached a point in which the intervention of the United States would prove of no avail." To this letter no answer appears to have been made, nor were any instructions given to our minister in London in pursuance of the request which it contained.

But on the 12th day of January, 1849, Mr. Bancroft referring to the arrival of Mr. Castellon in London, and to the subject of his mission, which was to settle the affair of San Juan de Nicaragua with the British government, says: "I think it proper to state to you my opinion that Lord Palmerston will not recede. I have of course taken no part." And in another letter to the Secretary of State, dated 9th March, 1849, he says: "Now, as we are gaining greatness in the Pacific, Great Britain, under pretence of protecting the Mosquito tribe of Indians, has seized the key to the passage to the Pacific by the lake of Nicaragua, and has changed the name of the town of San Juan de Nicaragua to Greytown. This subject is important, because the route to the Pacific which that town commands is here esteemed the best of all. The representative of Nicaragua, who is here, is in great perplexity, and may well be in doubt what to do. * * * He would very gladly seek advice from the United States. I have always made answer to him that I am not authorized by my government to give him advice; that I can only communicate to the American government whatever facts he may desire to make known to it. My instructions warrant not much more." The same letter was accompanied by a copy of a despatch from Lord Palmerston to Mr. Castellon, of the 17th February, 1849, announcing that "her Majesty's government cannot do anything which can be interpreted as admitting any doubt that Greytown belongs exclusively to the Mosquito territory."

The maps accompanying the correspondence exhibit the extent to which the limits of the Mosquito kingdom have been carried in Central America. One of these maps has been supplied by our present chargé d'affaires at Guatemala; the other is a British map recently published by authority of the British government, and transmitted to the Department of State by our present minister in London. From these and other maps, it appears that the limits of the Mosquito kingdom have been changed from time to time, until they embraced more than half of Central America, and have even been pushed beyond the boundaries of New Grenada, as far as Boca del Toro.

Christopher Hempstead having been appointed consul of the

United States for Belize, on the 3d day of March, 1847, an application was made for his exequatur to the British government through Mr. Bancroft. That application was referred by Lord Palmerston to the Colonial Office. The exequatur was granted, as will be seen by a copy of a letter addressed by Mr. Hempstead to the Department of State, on the 12th day of February, 1848, herewith submitted. Thus far, the existence of a British colony at Belize, in Honduras, has been recognized by this government.

On the 26th day of May, 1848, in a letter addressed to the Secretary of State, Mr. Hempstead represented that the Indians in Yucatan had "applied to her Majesty's superintendent at Belize for protection, and had desired him to take possession of the territory which they occupied, and take them under his protection, as British subjects;" and he further added, that, in the event of the success of their application, "the British government would then have possession of the entire coast from Cape Conte to San Juan de Nicaragua." Again, on the 29th of July, 1848, he wrote: "I have no doubt but the designs of her Majesty's officers, here and on the Mosquito shore, are to obtain territory on this continent." The receipt of this letter was regularly acknowledged on the 29th of August, 1848.

Accompanying that note of Señor Buitrago will be found copies of the treaties of 1783 and 1786, between Great Britain and Spain, from which a judgment may be formed of the relative rights of the parties to those treaties in the territory of which British Honduras was then a part.

Without instructions from Congress, the Executive could not disturb the British possession in Honduras; the more especially since the recognition of it in 1847, as a British colony. But as to the province of Yucatan and the State of Costa Rica—over both of which it appeared, from the official correspondence in the Department of State, that certain persons, represented to be British agents, had for a long time been seeking to establish protectorates—the late President directed the Secretary of State to make inquiries as to the intentions of the British government. These inquiries resulted in the accompanying correspondence between the British minister, in Washington, and the Secretary, from which it will appear that the British government, in the most cordial spirit of friendship, have now declared it to be their fixed policy to establish no more protectorates over distant States. This frank declaration of Great Britain—made, as I understand it, for the purpose of explaining her inten-

tions, in regard to the future acquisition of territory in America, through the medium of protectorates—cannot fail to strengthen the amicable relations existing between the two chief commercial nations of the world.

The island of Tigre, in the State Honduras, was occupied by British forces on the 16th day of October, 1849, by order of Mr. Chatfield, her Britannic Majesty's chargé d'affaires in Central America. No instructions appear to have been given to him for that purpose by the British government, nor were any given to the American chargé d'affaires in that country to negotiate for the cession of this or any other territory to the United States. As soon as it was known to me that Mr. Squier had commenced such negotiations, he was instructed that the capitalists who proposed to construct the ship navigation between the Atlantic and Pacific oceans through the lakes Nicaragua and Managua had never applied to this government for any treaty with Honduras on that subject, and that his instructions from the Department of State, by which he should be governed, did not warrant the negotiation of a treaty acquiring more territory for the United States.

The occupation by authority of the British chargé d'affaires finally appeared to have been made in consequence of alleged spoliation on the commerce of Great Britain and the imprisonment of her subjects. As we had in the progress of the negotiation of the new treaty with Great Britain been informed that she did not intend to occupy any part of Central America, the late President directed the inquiry to be made of the British government what the intentions of that government were in taking possession of this island. From the answer given, it appeared that shortly after the occupation, and even before we had applied to her Majesty's government for information on the subject, the British forces and flag had been withdrawn from the island by the British admiral commanding in the Pacific, and that the flag of Honduras had been hoisted by his order, under a salute of twenty-one guns.

The unauthorized acts of the British and American diplomatic agents in Central America in regard to this island might for the time have seriously interrupted the friendly understanding existing between their respective governments, but for the fact that the negotiations which have at length terminated in an amicable treaty had progressed so far in November last that both nations then understood each other on the subject of the occupation of Central American territory, and were rapidly approaching their final

determination, that the whole territory of Central America should be neutral, and the passage across the isthmus dedicated as a highway for all nations, whose commerce should never be overawed or endangered by the colonization or dominion of any great maritime power.

A copy of the treaty concluded between Great Britain and the United States in regard to Central America is herewith submitted. Its engagements apply to all the five States which formerly composed the republic of Central America and their dependencies, of which the island of Tigre was a part. It does not recognise, affirm, or deny the title of the British settlement at Belize, which is, by the coast, more than five hundred miles from the proposed canal in Nicaragua. The question of the British title to this district of country, commonly called British Honduras, and the small islands adjacent to it claimed as its dependencies, stands precisely as it stood before the treaty. No act of the late President's administration has in any manner committed this government to the British title in that territory, or any part of it.

When the late President came into office he found the British government in possession of the port of San Juan de Nicaragua, which it had taken by force of arms, after we had taken California, and while we were engaged in the negotiation of a treaty for the cession of it, and that no official remonstrance had been made by this government against the aggression, nor any attempt to resist it. Efforts were then being made by certain private citizens of the United States to procure from the State of Nicaragua, by contract, the right to cut the proposed ship canal, by the way of the river San Juan and the lakes of Nicaragua and Managua, to Realijo, on the Pacific ocean. A company of American citizens entered into such a contract with the State of Nicaragua. Viewing the canal as a matter of great importance to the people of the United States, the late President resolved to adopt the policy of protecting the work, and binding by treaty the government of Nicaragua, through whose territory it would pass, also to protect it. The instructions to E. George Squier, appointed by him chargé d'affaires to Guatemala, on the 2d day of April, 1849, are herewith submitted, as fully indicating the views which governed the late President in directing a treaty to be made with Nicaragua. He considered the interference of the British government on this continent in seizing the port of San Juan, which commands the route believed to be the most eligible for the canal across the isthmus, and occupying it, at

the very moment when it was known, as he supposed, to Great Britain, that we were engaged in the negotiation for the purchase of California, as an unfortunate coincidence, and one calculated to lead to the inference that she entertained designs by no means in harmony with the interests of the United States; but he confidently expected that the amicable convention lately entered into and ratified by the two countries, would be sufficient to dispel every doubt as to the friendly intentions of Great Britain.

With regard to the special convention negotiated by Mr. Hise with the State of Nicaragua, it is proper to remark that, inasmuch as he had been positively instructed to make no treaty—not even a treaty of commerce—with Nicaragua, Costa Rica, or Honduras, it was not imagined that he would act in opposition to his instructions; and in September last the Executive was for the first time informed that he had negotiated two treaties with the State of Nicaragua—the one a treaty of commerce, the other a treaty for the proposed ship canal—both of which he brought with him on his return home. He also negotiated a treaty of commerce with Honduras; and in each it is recited that he had full powers for the purpose. He had no such powers; and the whole proceeding, on his part, with reference to those States, was not only unauthorized by instructions, but in opposition to those he had received from President Polk, and after the date of his own letter of recall and the appointment of his successor. But I have no evidence that Mr. Hise, whose letter of recall (a copy of which is herewith sent) bears date the 2d day of May, 1849, had received that letter on the 21st of June, when he negotiated the treaty with Nicaragua. The difficulty of communicating with him was so great that I have reason to believe he had not received it. He did not acknowledge it.

The twelfth article of the treaty negotiated by Mr. Hise in effect guaranties the independence of the State of Nicaragua, and her sovereignty over her alleged limits, from the Caribbean sea to the Pacific ocean, pledging the naval and military power of the United States to support it. This treaty authorizes the chartering of a corporation by this government to cut a canal outside of the limits of the United States, and gives to us the exclusive right to fortify and command it. The late President did not approve it, nor did he submit it to the Senate for ratification—not merely because of the facts already mentioned, but because, on the 31st of December last, Señor Eduardo Carcache, on being accredited to this government as *chargé d'affaires* from the State of Nicaragua, in a note to the Sec-

retary of State (a translation of which is herewith transmitted) declared that "the special convention concluded at Guatemala, by Mr. Hise, the chargé d'affaires of the United States, and Señor Selva, the commissioner of Nicaragua, had (as was publicly and universally known) been disapproved by his government."

We have no precedent in our history to justify such a treaty as that negotiated by Mr. Hise since the guarantees we gave to France of her American possessions. The treaty negotiated with New Grenada, on the 12th day of December, 1846, did not guaranty the sovereignty of that State over the whole of her territory, but only over the "single province of the isthmus of Panama," immediately adjoining the line of the railroad, the neutrality of which was deemed necessary by the President and Senate to the construction and security of the work.

The policy adopted by this government in negotiating with the Central American States, and with all foreign nations in regard to those States, owes its origin to the resolution of the Senate of the United States, unanimously adopted on the 3d of March, 1835, in the following words:

Resolved, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the governments of Central America and New Grenada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific oceans by the construction of a ship canal across the isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking and complete the work."

President Jackson approved and adopted the principles of this resolution, and, in pursuance of it, sent Charles Biddle, as agent to negotiate with the governments of Central America and New Grenada. The result is fully set forth in the report of a select committee of the House of Representatives, of the 20th of February, 1849, upon a joint resolution of Congress to authorize the survey of certain routes for a canal or railroad between the Atlantic and Pacific oceans. The policy adopted by the President and Senate, as indicated in the resolution of the 3d of March, 1835, was fully confirmed by President Polk in his Executive message to the Senate

of the 10th of February, 1847, (in which he cites and relies on that resolution,) and by the Senate, which, in consequence of the recommendation contained in that message, confirmed the treaty with New Grenada in regard to a canal or railroad across the isthmus at Panama. The objects of the late President, like those of his predecessors to whom I have referred, were to open communications across the isthmus to all nations, and to invite their guarantees on the same terms; to propose no guaranty of territory to a foreign nation in which the United States would not have a common interest with that nation; and to constitute alliances, not for political objects, but for purely commercial purposes, equally interesting to all the navigating nations of the world.

We are more deeply interested in the construction of a ship canal through the isthmus which divides North and South America than any other nation. Without it, we may not be able to maintain our possessions on the Pacific. We shall profit more by the treasures of that ocean, in the event of the construction of inter-oceanic communications through that isthmus, than any other people; and, in view of this, the late President determined to extend the protection of this government to every such communication, whether by canal or railroad; inviting, also, that of all other nations desiring to enjoy the rights of passage, without which a heavy expense might be entailed upon the United States in maintaining a sufficient naval and military force for that purpose.

In submitting this report, which is made in obedience to the directions of the President, I have endeavored briefly to explain the policy of the late lamented Chief Magistrate, whose instructions, in reference to the interesting subjects embraced in the resolution of the House, it was my pleasure not less than my duty to obey; and with a view to greater accuracy, I have often, in this communication, used the language employed by him in a paper relating to the same subject.

JOHN M. CLAYTON.

Department of State, July 18, 1850.

31st Congress, 1st Session.
House Doc. 439.
In Vol. 3.

1st August, 1850.

(Report to House of Representatives.)

Report to Committee of House of Representatives on Naval Affairs, made by F. P. Stanton on memorial of Memphis convention demanding aid of companies in construction of ship-canal across the Isthmus of Panama, Tehuantepec or Nicaragua, August 1, 1850.

(Omitted.)

32nd Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

16th August, 1850.

(Mr. Lawrence to Mr. Webster.)

[*Extract.*]

LEGATION OF THE UNITED STATES,
(No. 71.) LONDON, August 16th, 1850.

In this connection it may not be improper to ask your attention to the various matters pending in this legation.

The first in importance are the unfinished negotiations with reference to Central America. The treaty concluded at Washington by your predecessor and Sir Henry Bulwer, and now ratified, has, I trust, laid at rest forever the Mosquito question. You will find on the archives of the department, in my No. 44, a historical review of the question, should it become involved in future negotiations. This, however, is but one of the difficulties to be surmounted. The States of Costa Rica and Nicaragua are in dispute as to their boundaries, each claiming a portion of the territory over which the proposed canal will undoubtedly pass. On the 14th of December last, in a note to Lord Palmerston, of which a copy accompanied my despatch No. 20, I invited the British government to offer its good offices, jointly with the United States, for the settlement of the question—which invitation afterwards received the hearty approval of the late President Taylor. Lord Palmerston has never replied to this note, but I have reason to think he is willing to join with us for such a purpose. I have also spoken on the subject to the chargés d'affaires of Nicaragua and Costa Rica, respectively, in interviews described in my No. 25. The Nicaraguan agent is now, and has for some time been, on the Continent, where he represents

his government at various courts. I have not heard from him officially on the subject. The Costa Rican chargé—acting, I doubt not, with the full knowledge of Lord Palmerston—addressed me last week an official note, of which I enclose a copy as also a copy of my reply. I respectfully, but earnestly, ask your attention to this communication, as I believe this to be almost the only obstacle in the way of the construction of the canal. * * *

[INCLOSURE NO 1.]

(M. Molina to Mr. Lawrence.)

116 GLOUCESTER TERRACE, HYDE PARK,
AUGUST 5, 1850.

SIR: I have the honor to state, that, having duly reported to my government the offer that your excellency had the kindness to make verbally to me, that the government of the United States were disposed to use their good offices, conjointly with the cabinet of Saint James's, in order to bring about the settlement of the boundary differences actually existing between Costa Rica and Nicaragua, I have received special instructions enjoining me to express to your excellency the deep gratitude of my country for the interest the American government have taken in its behalf; and to declare, likewise, in the manner which may be considered most binding, that the republic of Costa Rica does, unreservedly, accept the high mediation of the United States and Great Britain for the purpose aforesaid, with a perfect confidence in the justice and wisdom of their councils.

It is, therefore, my pleasing duty to assure your excellency that Costa Rica, fully concurring in the magnanimous and philanthropic views of both powers set forth in their convention, signed in Washington on the 19th April of the present year, is willing to submit the question of her rights over all the territories in dispute between Nicaragua and herself to the combined mediation or arbitration of Great Britain and the United States, and to hold their joint decision as final and irrevocable, provided Nicaragua should have previously placed herself under a similar obligation. I beg at the same time to state that, even in a contrary supposition, Costa Rica will nevertheless be prepared to listen to, and disposed to adopt, any plans of arrangements which the cabinets of Washington and Saint James's, by common consent, may suggest, in the way of mutual renunciations, exchanges, or indemnities, if necessary; or to concur in any opinion they may express with a view to a final determination and settlement of the boundary differences in question, and to the facilitating the construction of a ship-canal.

I have, likewise, to acquaint your excellency that I am authorized, if it is

deemed desirable, to sign any treaty or engagement in reference to the declarations above stated.

As to the mode of carrying out the proposed mediation or arbitration, perhaps your excellency will allow me to suggest that, as I have full powers from my government for the purpose, the government of Nicaragua should be invited to send to their minister here equal powers, when the affair could be settled with your excellency's co-operation and that of her Britannic Majesty's Principal Secretary of State for Foreign Affairs, to whom I address, under the same date, a letter identical with the present communication to your excellency. On behalf of Costa Rica, however, I shall be prepared to adhere to any other plan that may be preferred for the above purpose by the mediating powers.

In the mean time, intelligence having been received of the formation of a confederacy between Nicaragua, Salvador and Honduras, with objects hostile to the peace and independence of Guatemala and Costa Rica, I have to express the confident trust entertained by Costa Rica that the influence of the American and British governments will be used to dissuade Nicaragua, or any other of the Central American States from any violent attempts or acts of aggression against her.

It is most satisfactory for me to state that the packet which has just arrived with the mails from Costa Rica up to the end of last June brings intelligence of the continued internal tranquility which Costa Rica has for so many years enjoyed; and that the government of the republic has become still more consolidated in the affections and prosperity of the people, whose material progress would be injuriously interrupted should they be called upon to abandon industrious pursuits in order to prepare a resistance to any attacks with which an external and misguided hostility might menace them.

This opportunity enables me to renew to your excellency the assurance of my profound respect and high consideration—remaining, sir, your excellency's most humble and obedient servant,

F. MOLINA.

[INCLOSURE No. 2.]

(Mr. Lawrence to M. Molina.)

ALNWICK CASTLE,
NORTHUMBERLAND, August 6, 1850.

SIR: Your letter of the 5th instant was forwarded to me at this place, and I hasten to reply.

It gives me great pleasure to know officially the views of Costa Rica on the subject to which your letter refers. I shall communicate them at once to my government, and ask for such instructions as it may see fit to give me in the

matter. Without such instructions, I am not prepared to indicate any way of accomplishing the object you have in view.

The peaceful spirit which animates the republic of Costa Rica is most praiseworthy. I hope the fears you express that the other republics of the isthmus are not actuated by the same spirit may prove groundless, but that, by the preservation of entire harmony among themselves, all will contribute to the speedy construction of a work destined incalculably to benefit Central America.

I pray you, sir, to accept anew the assurances of the profound respect and high consideration with which I have the honor to be your most obedient, humble servant,

ABBOTT LAWRENCE.

[The above letter and inclosure appear as Document 39, Inclosures 1 and 2, in Special Message of President, 21st January, 1853, pp. 101-104.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

10th September, 1850.

[Extract from Translation.]

(The Minister of Foreign Affairs for Nicaragua to the Secretary of State of the United States.)

DEPARTMENT OF FOREIGN RELATIONS,
LEON DE NICARAGUA, September 10, 1850.

SIR: The important dispatch received from your excellency, dated the 17th of last June, is another of those documents bearing incontestable evidence of the very noble and fraternal sentiments which animate the respectable government of the United States in its intercourse with the government of this State relative to those sacred rights and vital interests which link the destiny of the latter with the other sections of the continent.

Your excellency is in possession of authentic data showing the ardent desire of this supreme government to establish such intercourse, and the efforts it has made to cultivate the same for the mutual benefit of the two countries; but although it has availed itself of all the means of communication which presented themselves, yet, owing to the obstacles thrown in the way of all regular correspondence by those who have usurped the occupation of the port of San Juan since the first day of January, 1848, this intercourse has

not been so frequent or so punctual as the importance of the matters at issue required; now, however, that your excellency has been pleased to select a safe channel of communication, in addressing the above mentioned dispatch to this cabinet, the Supreme Director having well considered its contents has agreed to apply to your excellency in the following terms:

That having experienced the most unbounded satisfaction, and entertaining a profound sense of gratitude for the friendly offices of your excellency's government relative to the great question which has been agitated with England, he begs to tender, from this moment, with all the earnestness of a true American heart, the thanks which are due for the offices aforesaid, and also for the transmission by your excellency of the treaty concluded in Washington on the 19th of last April, and for the progress your excellency's government has made in procuring the assent of all the principal maritime powers of Europe to said treaty. Your excellency has good reason to hope for the co-operation of the Central American States.

The accomplishment of this interesting object will be greatly facilitated by the simultaneous effort now making on the part of the States of Labrador, Honduras and Nicaragua to establish a national union in Central America, in spite of the opposition offered by Guatemala and Costa Rica to the realization of such a scheme.

With regard to the State of Nicaragua, which is immediately interested in the question pending with England, it wishes to make known from this moment to the high government of your excellency, that it does not entertain the smallest doubt of the just and benevolent intentions both of said government and of the heroic people of the United States, and that it anticipates from the treaty of the 19th of April all those great results which your excellency has been pleased to prognosticate in regard to the future sovereignty and aggrandisement of this country.

To the Most Excellent the SECRETARY OF FOREIGN AFFAIRS
Of the supreme government of the republic of
North America.

[*The above letter appears as Document 2, in Special Message of President, 14th February, 1856, pp. 5-6.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

28th September, 1850.

(Translation.)

(The Minister of Foreign Affairs of Nicaragua to the Secretary of State of the United States.)

DEPARTMENT OF FOREIGN RELATIONS,

LEON, September 28, 1850.

SIR: I have the honor of transmitting to your excellency copies of the notes which have been addressed to this department by Mr. Frederick Chatfield, her Britannic Majesty's consul general in Central America, under the respective dates of August the 15th and the 2d instant, and of the replies which have been sent to him by this department, on the 16th and 23d of the present month.

From these documents your excellency will perceive, that notwithstanding the treaty of Washington of last April the 19th, Mr. Chatfield persists in maintaining the integrity of the Mosquito nation, resting his argument upon the recognition which he supposes the government of the United States to have made of her independence, as well as the fact that the aforesaid treaty was concluded with Great Britain, adding, by way of strengthening his argument, that the government of the French republic has already acceded to the same.

Although Nicaragua has not caused the assertion of her rights to be included in the treaty of the 19th of April, she has seen, with very great satisfaction, a vindication of the same therein, as a kind of explanation and recognition of those rights on the part of the contracting parties; and the supreme director, who saw in the consul's notes alluded to above a studied evasion, with a view of continuing to usurp the coast and the northern ports of the State, has, without a moment's hesitation, decided upon forwarding those documents to your excellency, for the purpose of subserving the general interests of your country and of this State.

It affords me pleasure to renew to your excellency my protestations of regard, with which I am your devoted servant.

S. SALINAS.

The Most Excellent the SECRETARY OF STATE FOR FOREIGN
AFFAIRS,

Of the government of the United States of North America.

[INCLOSURE NO. 1.]

(Translation of Translation.)

HER BRITANNIC MAJESTY'S LEGATION AT GUATEMALA,

AUGUST 16, 1850.

SIR: Mr. Vice Consul Foster has informed me of the steps which he has deemed it his duty to take in consequence of the losses recently experienced by Messrs. Beschor & Co., of Granada, through acts of public violence, and for the recovery of a debt contracted some time since by the government of Nicaragua with the aforesaid Messrs. Beschor & Co., for the use of certain small vessels which had been forcibly taken possession of by armed men.

In replying to Mr. Foster, under the respective dates of the 19th and 20th of July last, the government of Nicaragua has made use of some expressions, in regard to the Mosquito coast and the authorities thereof, which, owing to the desire I entertain, and have constantly manifested, to see the government of Nicaragua free from the embarrassments by which it is surrounded, in consequence of its not understanding or of concealing from itself its true position in regard to the Mosquito question, have induced me to offer a few remarks on the subject.

I do not wish to make any comments upon the uncourteous and ill-tempered expressions which the government of Nicaragua, unthinkingly, perhaps, has used, in speaking of the British government and its agents, in the course of the controversy about the Mosquito question, as I am disposed to attribute a great portion of this irritability and want of courtesy to error and the suggestions of evil counsellors; but I cannot forbear recommending to your government, in the most friendly spirit, the propriety of viewing a question, the final arrangement of which is demanded by the interests of the country, in a manner more worthy of statesmen, and of treating this subject without any reference to those false relations now existing, and those exaggerated offers on the part of persons who are interested in fomenting ill feelings between Nicaragua and Great Britain.

Instead of persisting in the maintenance of fancied rights to the coast of Mosquito, and refusing to listen to reason, Nicaragua would much more consult her interests by coming to a satisfactory arrangement with England upon this question, as it will not be much longer of any avail to resist the settlement of it.

The government of Nicaragua cannot be ignorant of the determination of her Britannic Majesty's government in regard to the Mosquito question, Viscount Palmerston having declared, in the most explicit language, to the chargé d'affaires of Nicaragua at the British court, in his communication of the 15th of last April, the impossibility of acceding to the pretensions of Nicaragua.

With regard to the treaty of Washington of the 19th of April, upon which I am told your government relies with undue confidence, that treaty recognizes distinctly, contrary to the interpretation evidently put upon it by Nicaragua, the existence of the Mosquito coast, setting thus aside all rights to the sovereignty of that country with which Nicaragua imagines herself to be invested.

The true policy for Nicaragua to pursue is to undeceive herself in regard to her pretensions to the Mosquito country, and to be more cautious how she listens to protestations and assurances on the part of pretended friends. Nicaragua would do well to come to an understanding, without delay, with Great Britain, upon whose relations depend not only the commerce and welfare of the State, but the probability of any positive measures being adopted for establishing an interoceanic communication across her territory, since London is the only place where sufficient capital and spirit of enterprise can be found for carrying out a project of such magnitude.

In conclusion, I beg to repeat, what I have frequently before stated, that her Britannic Majesty's government is actuated by the best wishes to serve Nicaragua, and to aid her in acquiring a proper position in the family of independent nations.

I have the honor, &c.,

FREDERICK CHATFIELD.

The MINISTER OF FOREIGN RELATIONS

Of the Supreme Government of Nicaragua.

LEON, September 28, 1850.

True copy:

[SEAL.]

SALINAS.

[INCLOSURE NO. 2.]

(*Translation.*)

GOVERNMENT HOUSE,

LEON, September 16, 1850.

The manner in which the British vice-consul, Mr. John Foster, addressed himself to this government in the name of Messrs. Beschor & Company, taking the existence of a Mosquito kingdom for granted, called forth the replies of the 19th and 20th July, to which you refer in your note of the 16th of last month, which I am instructed to answer as follows.

I must assure you that it was never contemplated by my government to say anything offensive to the dignity of that of her Britannic Majesty, and that the language or sentiments to which allusion is made in your note must be

understood as applying solely to what concerns the vindication of the rights of Nicaragua; and you must feel assured that, if we could be biassed by the ancientness of the relations that have existed between British subjects and the sons of Nicaragua, by the identity of those principles of civilization which prevail in both countries, by the interest which England has manifested in all that relates to American independence, and the freedom of the commerce of the world, upon which the best hopes of Nicaragua depend; if, I say again, we could be biassed by these pre-existing circumstances, Great Britain and this same State would be united in bonds of the most perfect harmony; but you will also permit me to say, that if these pre-existing auspicious relations have been neutralized by circumstances which are driving us to the painful extremes of hostility, it is all owing to a hypothetical expression—a word, and that word is, the *kingdom* of Mosquito.

My government being free from those pernicious influences which you suppose it to be actuated by, and relying upon the justice of the cause of Nicaragua, even though the Washington treaty of the 19th of last April were not in existence, is determined to maintain it, without, however, ceasing to hope that the obstacles which have endangered the present temporary disagreement between Great Britain and Nicaragua will be promptly and happily smoothed away.

This favorable disposition on the part of my government will convince you how much it values the generous sentiments which, you assure me, the government of Great Britain entertains toward Nicaragua.

Be pleased, in the meanwhile, to accept the assurances of respect and esteem with which I am your obedient servant,

S. SALINAS.

Mr. FREDERICK CHATFIELD,

Her Britannic Majesty's consul in Central America, and
chargé d' affaires near the governments of Guatemala and
Costa Rica.

LEON, September 28, 1850.

True copy:

[SEAL.]

S. SALINAS.

[INCLOSURE NO. 3.]

(*Translation of Translation.*)

LEGATION OF HER BRITANNIC MAJESTY,
GUATEMALA, September 2, 1850.

SIR: I have received a communication from Mr. Vice Consul Foster, dated the 12th of last month, with an enclosed copy of a note which you addressed him on the 2d of the same month, in your capacity of minister of foreign rela-

tions for the government of Nicaragua, relative to certain custom-house regulations now in force at Greytown, (San Juan.)

It is much to be regretted that the minister of Nicaragua should, in his allusions to the government of her Britannic Majesty, make use of offensive and unmerited language, since it would be more proper for Nicaragua, instead of accusing Great Britain of injustice and usurpation, to consider calmly the arguments and proofs which have been addressed by her Majesty's government to Don Francisco Castellon and Señor Marcoleta, the diplomatic agents of the government of that State in London, in refusing to acknowledge the right of sovereignty over the Mosquito territory which Nicaragua alleges to belong to her.

The government of her Majesty the queen has already shown that it is fully justified in maintaining the independence of Mosquito, and although it has been asserted by Nicaragua that it is only lately; and since the independence of Nicaragua, that Great Britain has thought of upholding the rights of the Mosquitos, the fact is, that Great Britain has never ceased to maintain the rights of the king of that coast, and to afford him protection, since the reign of Charles II of England, two hundred years ago.

As the minister of Nicaragua quotes the 4th article of the convention concluded between Captain Lock and the government of Nicaragua on the 7th of March, 1848, it is proper to observe that her Majesty's government has called the attention of Mr. Marcoleta to the 3d and 4th articles of said convention, complaining of the violation of the same on the part of Nicaragua. In those articles Nicaragua promises solemnly not to disturb the peaceful inhabitants of the port of San Juan, now called Greytown, and that no custom-house should be established in the neighborhood of that port; and while the government of Nicaragua was proposing to carry into effect a certain negotiation, in conformity with the convention mentioned above, that same government entered into a contract with various companies, composed of citizens of the United States, not only binding them to build a custom-house in Greytown, but even offering to make that place a free port, and to divide a certain portion of the lands adjoining among citizens of the United States for purposes of colonization.

These proceedings in regard to Greytown and the Mosquito territory are by no means in accordance with the obligations which the government of Nicaragua has contracted with the government of her Britannic Majesty.

With regard to the accusation which the minister of Nicaragua has brought against the custom-house officers of Greytown, charging them with "scandalous depredations" upon merchants of Nicaragua, I must remind the minister of Nicaragua that, by his own confession, the agent of Mr. Carcache had failed to comply with the regulations of the port in regard to custom-house duties, and I can assure him that it is only those persons who seek to evade the law that are exposed to the annoyances alluded to by him.

If the government of Nicaragua, consulting the interests of its own commerce and revenue, had listened to my overtures, the object of which was to promote an amicable understanding about the pending questions, no difficulties would now exist. I am well aware that Nicaragua has allowed herself to be carried away by false promises and vain hopes of assistance and support against England, relative to the Mosquito question; but these hopes could no longer have been entertained by persons of sound judgment, after the settling and signing of the treaty of Washington, to which France has acceded. This treaty is an unquestionable authority upon this point, and so far from favoring the views of Nicaragua, said treaty declares that North America recognizes the existence of Mosquito, acknowledging it to be as perfectly distinct a State or country, with respect to Nicaragua, as Costa Rica or any other portion of Central America.

I have thus had the honor of replying to the note which the government of Nicaragua has thought proper to address, through you, to the British vice consul, on the 2d of last August; there only remaining for me to reiterate, in conclusion, the good wishes and friendly feelings by which I am actuated in endeavoring, in the name of her Britannic Majesty's government, to effect an amicable arrangement with the government of Nicaragua, which may be the means of establishing the relations of the two countries upon a solid and satisfactory foundation.

I have the honor, &c.,

FREDERICK CHATFIELD.

DON SEBASTIAN SALINAS, Minister of Foreign Relations
for the government of Nicaragua, Leon.

LEON, September 28, 1850.

True copy:

[L. s.]

SALINAS.

[INCLOSURE No. 4.]

(*Translation.*)

GOVERNMENT HOUSE,

LEON, September 23, 1850.

Having acquainted the supreme director of this State with the contents of your note of the 2d inst., in which notice is taken of that which I addressed to Mr. Vice Consul Don Juan Foster, on the 2d of last August, relative to certain custom-house regulations now in force in the port of San Juan de Nicaragua, that high functionary has directed me to say to you in reply: That this government, in claiming what is due to the State, and in defending the

rights of the same, as it is bound in duty to do, from the territorial usurpations, the injuries, and vexations which have been inflicted, and are still being inflicted upon us by British agents and British subjects, had not, and never can have any intention of infringing upon those considerations of respect which are due to all governments; and that whatever may be the spirit of the treaty of the 19th of April of the present year, between the United States and England, it cannot have deprived Nicaragua of her unquestionable rights over the Territory called Mosquito and the port of San Juan, because the State does not allow the justice of its cause to depend upon that convention, which simply recognizes the same and no more, being satisfied with the fundamental principles so frequently asserted in its favor; which principles, in proportion as they received the support and approbation of impartial nations, they became obnoxious to her Britannic Majesty's government and its agents, neither of whom would examine them with that calmness of temper which reason requires, and which Nicaragua could have wished, out of regard for those friendly relations and good understanding which she is anxious to cultivate and to maintain in her intercourse with the cabinet of St. James.

With regard to the negotiations which you say you are disposed to forward, my government shall always be found ready to act with the utmost deference in the matter, whenever the government of her Britannic Majesty shall have recognized the rights of Nicaragua to the Mosquito Territory, and that the port of San Juan, which has been occupied since the 1st of January, 1848, shall have been vacated.

I have the honor to renew to you my expressions of regard, and to remain your obedient humble servant,

S. SALINAS.

Mr. FREDERICK CHATFIELD,
 Consul General of her Britannic Majesty
 in Central America, and Chargé d'Affaires
 near the governments of Guatemala and Costa Rica.

LEON, September 28, 1850.

True copy:

[L. S.]

SALINAS.

[The above letter and inclosures appear as Document 3, Inclosures 1-4, in Special Message of President, 14th February, 1856, pp. 6-12.]

32d Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

15th October, 1850.

(Mr. Lawrence to Mr. Webster.)

[*Extract.*]

[No. 80.]

UNITED STATES LEGATION,
LONDON, October 15, 1850.

SIR: I have the honor to enclose an original note received yesterday from M. Marcoleta, the minister of the republic of Nicaragua, and a copy of my reply.

* * * * *

I have the honor to be, very respectfully, sir, your obedient servant,

ABBOTT LAWRENCE.

Hon. DANIEL WEBSTER,
Secretary of State, Washington, D. C.

[ENCLOSURE NO. 1.]

(M. Marcoleta to Mr. Lawrence.)

[*Translation.*]

LEGATION OF CENTRAL AMERICA,

[Very Private.]

LONDON, October 13, 1850.

MONSIEUR LE MINISTRE: The legation of Nicaragua has just been positively informed that her Britannic Majesty's government has proposed to that of the United States of North America, as a means of settling the question of San Juan de Nicaragua, the cession of that port to the State of Costa Rica.

As the tendency of this proposition is to deprive the government of Nicaragua of its lawful rights over that portion of its territory—rights which the mere fact of British occupation could not have destroyed—and as this arrangement, moreover, would, of itself, be contrary, not only to the interests of Nicaragua, but to those even of the canal company, and as it would amount to an occupation, or a continuance of the occupation under a different aspect, the undersigned begs now to declare, in the most positive and solemn manner, that his government, so far from being able or desiring to accept this proposition as the basis of a settlement, sees nothing in it, on the contrary, but a denial of justice in regard to its rights, and the foundation of fresh difficulties and further complications.

The government of Nicaragua could not, therefore, give its consent to any measure based upon this principle, nor willingly surrender, as the consequence of yielding such consent, rights which it has never ceased to maintain since the

first of October, 1848—the date of the occupation of San Juan by the British forces, in the name of the pretended chief of Mosquitoes. Consequently, the undersigned begs that his excellency the minister of the United States of North America will be pleased to forward the above declaration to his government. And he avails himself, at the same time, of the opportunity to tender to his excellency the assurance of his most distinguished consideration.

J. DE MARCOLETA.

His Excellency Mr. ABBOTT LAWRENCE,
Envoy Extraordinary and Minister Plenipotentiary
of the United States of North America.

[INCLOSURE NO. 2.]

(Mr. Lawrence to M. Marcoleta.)

[*Translation.*]

138 PICCADILLY, October 15, 1850.

The undersigned, minister of the United States of North America, presents his compliments to M. Marcoleta, minister of Nicaragua, and has the honor to inform him that his official letter of the 13th instant has been received.

The undersigned will have the honor of transmitting a copy of the aforesaid letter to his government; and begs that M. Marcoleta will accept the assurances of his high consideration.

ABBOTT LAWRENCE.

[*The above letter and inclosures appear as Document 40, Inclosures 1 and 2, in Special Message of President, 21st January, 1853, pp. 104-105.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

13th November, 1850.

(The Minister of Foreign Affairs of Nicaragua to the Secretary of State of the United States.)

[*Translation.*]

GOVERNMENT HOUSE,
LEON, November 13, 1850.

On the 10th of September of the present year, a dispatch was addressed to your Excellency, by which this government, in reply to your Excellency's communication of the 17th of June, states that the intentions of your government in favor of the independence and

sovereignty of Nicaragua, declared in its treaty of the 19th of April last, concluded with England, have been set at naught by the latter's insisting on the armed protectorate of the unrecognized Mosquito nation and its fictitious king—seeing that at the date of the aforesaid reply there had already been introduced in the port of San Juan del Norte an armed force, belonging to the service of her Britannic Majesty; and there was continued the usurpation of this, the most precious part of the territory of this State, and the most important to the world for carrying out the great undertaking of the interoceanic communication contracted for on the 27th of August, with the Atlantic-Pacific Canal Company of the United States.

But if, up to the date above mentioned, any doubt could have been entertained as to the views of the English government, it is now evident that those views are directed towards reestablishing the same order of things which existed previous to the aforesaid treaty—the same Mosquito nation, the same savage king and the same armed protection of her Britannic Majesty.

The commanding officer of the English squadron in the Antilles has declared, by order of her Britannic Majesty, through a communication dated the 14th of September of this same year, transmitted by the commander of the forces which arrived at the port aforesaid, to the British agent residing at Realejo, and by the latter to the government of Nicaragua, that as a proof that the treaty of the 19th of April allows the armed protectorate of her Britannic Majesty, in favor of the imaginary Mosquito kingdom, to be in existence, he has taken military possession of the port of San Juan de Nicaragua and its vicinity, for the purpose of securing the supposed territorial rights of the pretended king, in regard to the interoceanic communication; promising to facilitate the course of the same through the Mosquito territory, as your excellency will see by the same declaration, of which I enclose a full and authorized copy, together with the reply given by this government, an authenticated copy of which is likewise subjoined.

So that the practical interpretation given by the English government to the treaty of the 19th of April, so far from respecting the sovereignty of this country over the port of San Juan del Norte, seeks to convert that very treaty into a title which England has never possessed, in order that the savage tribe of Mosquitos may be considered as a monarchical nation, and as having rights over the northern coast and the port of San Juan de Nicaragua; maintaining the usurpation of these territories by new outrages, by means

of force and violence, like those which she committed previous to the aforesaid treaty.

In the contract for the interoceanic communication entered into by this government with the aforesaid company of the United States, the port of San Juan, or any other point on the northern coast, were expressly calculated upon as the property and possessions of Nicaragua; this contract was recognized by Great Britain in the treaty of the 19th of April, article 7th, and the State shall never betray the rights and interest of the continent by recognizing a savage tribe as a sovereign people, with a king and foreign relations.

Nor will the United States recognize this Mosquito nation, nor the intervention of foreign powers in the international affairs of this continent. The solemn declarations of that high government, its conduct in similar cases, and the course pursued by its minister plenipotentiary the M. E. George Squire, disavow the pretended sovereignty of savage tribes, as irreconcilable with territorial integrity, with the paramount dominion and with the independence of every nation which has, at any point of its territory, these small quantities of savages.

This absurdity of forming savage States within the territory of civilized States is rendered much more offensive, unjust and self-evident, when it is sought to do so by force, and when the great treaty which secures the rights of Nicaragua, and even the whole of Central America, against the usurpations of the English government, is held for nothing, and is even considered as a good excuse for pursuing the same system of barbarous exactions.

As all the arrangements of this State with the worthy government of the United States must rest upon the basis of the sovereignty of Nicaragua and the integrity of her territory, intended for the enterprise of the interoceanic communication, by the contract alluded to, this government has authorized Sr. D. Jose de Marcoleta, in order that, in his capacity of minister plenipotentiary of Nicaragua near the United States, he may conclude such treaties as may tend to the safety and prosperity of the two countries, as I informed your excellency under date of the 3d of the same month of October.

But as it might happen that Mr. Marcoleta might be prevented by circumstances from pursuing his journey to that capital, while the English government, instead of restoring the port of San Juan and the Mosquito coast to this State, has lately increased the force

with which it took military possession of said port and its vicinity, so much so that an English company has concluded with the agent of Costa Rica, Sr. Felipe Molina, a contract of interoceanic communication, by the port and river of San Juan de Nicaragua, the government of this State has determined to address the present dispatch to your excellency, in order that, in view of the facts and documents to which it refers, the government of that respected republic may determine what is proper, in regard to what concerns the interests of the nation which it so happily rules, according to the interpretation which the contracting parties have given to the treaty of the 19th of April; seeing that, at all events, Nicaragua maintains and sustains her rights to the coast called Mosquito, to the port of San Juan and its vicinity, and is ready to enter into arrangements of harmony and good understanding, not only with the government of the American nation, but also with all the governments of the other nations of Europe, and even with England herself, the integrity of her Territory being first recognized; I having the satisfaction to intimate to your excellency that such arrangements shall be based on principles of philanthropy and common advantage to the commercial world.

I have the honor to renew to your excellency my sentiments of regard and respect, and to subscribe myself your excellency's obedient and humble servant,

SEBASTIAN SALINAS.

The MINISTER OF FOREIGN RELATIONS
Of the supreme government of North America.

[INCLOSURE NO 1.]

(*Translation.*)

BRITISH VICE CONSULATE,
REALEJO, October 12, 1850.

SIR: I have the honor to inform you that I have received a note from Captain Robert Smart, of her Britannic Majesty's ship *Indefatigable*, and formerly in command of the protective force, dated Greytown, the 14th of September last, to which point he has been sent by the commanding officer of her Majesty's naval forces in Jamaica.

The orders of Captain Smart were that the tenor of his instructions might be communicated to the government of Nicaragua.

"The treaty lately concluded at Washington between Great Britain and the United States, for the construction of a maritime canal between the Atlantic and Pacific oceans, having been perversely interpreted by a certain party as a surrender of the protection hitherto afforded by the former to the Mosquito nation, her Majesty's government has deemed it proper to station said force at Greytown and its vicinity, for the purpose of proving that such surrender was never intended; and whilst it adopts this measure for the purpose of securing the rights of the Mosquito king, every facility will be afforded to the parties pledged to carry into effect the canal in its transit through the territory of the latter, in conformity with the tenor of said treaty. Captain Smart, in communicating this to the government of Nicaragua, invites it to come forward in a spirit of conciliation in order to settle all existing difficulties, and to avoid any infraction of treaties actually in force."

Such, sir, is the substance of Captain Smart's note, and being so well convinced as I am of the many advantages which would accrue to both Nicaragua and Mosquito by a removal of all irritating causes, which only tend to increase their disagreements and retard that prosperity which is now dawning upon them, I may be allowed to allude here to the closing paragraph in Mr. Chatfield's letter of September 2, addressed to you, sir, in which he points out the means by which an honorable settlement of all existing difficulties can be reached, and in furtherance of which purpose every assistance will be given by your very obedient servant,

JOHN FOSTER,
Vice Consul.

To the PRINCIPAL SECRETARY
Of the government of Nicaragua.

LEON, November 12, 1850.

True copy:

[L. S.]

SALINAS.

ENCLOSURE NO. 2.

(Translation.)

GOVERNMENT HOUSE.

LEON, October 22, 1850.

This department has received your note, dated the 12th instant, enclosing the instructions which the commander of her Britannic Majesty's naval forces at Jamaica has addressed to Mr. Smart, captain of her Britannic Majesty's ship-of-war *Indefatigable*, and formerly in command of the protective force stationed at the port of San Juan de Nicaragua, which you call Greytown, declaring that some parties having given a perverse interpretation to the treaty concluded at Washington on the 20th of April last between the United

States and England, construing the same as a surrender of the protectorate which her Britannic Majesty's government has a right to exercise, for a long time past, over the so-called Mosquito nation, he has determined to make use of said protectorate by taking military possession of the port aforesaid and its vicinity, in order to secure the rights of the supposed Mosquito king, promising, at the same time, to afford every facility to the parties pledged to carry into effect the interoceanic canal undertaking, in its course through the Mosquito territory, in conformity with said treaty, and inviting the government of this State to settle all existing difficulties and to avoid any infraction of the aforesaid treaty.

The government of the undersigned will forbear from entering into any lengthy discussion as to whether the captain of a ship-of-war is the proper channel for official communications of this kind, inasmuch as the rules of international law, in the management of diplomatic relations, are well known; and confining itself strictly to the contents of your note, it has directed the following reply: That this State has never recognized the existence of a monarchy and of a king on the northern coast of its territory; that, on the contrary, it has always maintained that the Atlantic coast inhabited by those Nicaraguan savages, called Mosquitos, is an integral part of the ancient province of Nicaragua, now a State bearing the same name; and that, consequently, it would only be upon this basis that this government could stipulate or accept treaties of friendship, commerce and navigation, which the government of her Britannic Majesty desires to have with it; that the aforesaid convention of Washington prohibits, definitely, her Britannic Majesty's government from all occupation of any point on the Mosquito coast, or of any other in Central America; that the act of stationing British forces in the port of San Juan de Nicaragua, and its vicinity, is a new aggression against the territorial rights of this State, and a manifest violation of the aforesaid treaty of Washington, against the infraction of which this government solemnly protests; and that, in view of the military occupation of the port aforesaid and its vicinities, the government of the undersigned will use such further means as international law admits in order to maintain its independence and sovereignty.

I have the pleasure of renewing to you my sentiments of regard, and to subscribe myself, as ever, your obedient and faithful servant,

SEBASTIAN SALINAS.

Don JUAN FOSTER,

Vice Consul of H. B. Majesty at the port of Realejo.

LEON, November 13, 1850.

True copy:

[L. s.]

SALINAS.

[*The above letter and inclosures appear as Document 4, Inclosures 1 and 2, in Special Message of President, 14th February, 1856, pp. 12-16.*]

31st Congress, 2d Session.
House Ex. Doc. No. 1.
In Vol. 1.

2d December, 1850.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

A convention was negotiated between the United States and Great Britain in April last for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans and for other purposes. This instrument has since been ratified by the contracting parties, the exchange of ratifications has been effected and proclamation thereof has been duly made.

In addition to the stipulations contained in this convention, two other objects remain to be accomplished between the contracting powers. First, the designation and establishment of a free port at each end of the canal. Second, an agreement fixing the distance from the shore within which belligerent maritime operations shall not be carried on. On these points there is little doubt that the two governments will come to an understanding.

The company of citizens of the United States who have acquired from the State of Nicaragua the privilege of constructing a ship canal between the two oceans, through the territory of that State, have made progress in their preliminary arrangements. The treaty between the United States and Great Britain of the 19th of April last, above referred to, being now in operation, it is to be hoped that the guarantees which it offers will be sufficient to secure the completion of the work with all practicable expedition. It is obvious that this result would be indefinitely postponed if any other than peaceful measures, for the purpose of harmonizing conflicting claims to territory in that quarter should be adopted. It will consequently be my endeavor to cause any further negotiations on the part of this government, which may be requisite for this purpose, to be so conducted as to bring them to a speedy and successful close.

MILLARD FILLMORE.

WASHINGTON, December 2, 1850.

32d Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

6th February, 1851.

(Mr. Lawrence to Mr. Webster.)

[No. 98.]

UNITED STATES LEGATION,
LONDON, February 6, 1851.

SIR: M. Molina, the minister at this court of the republic of Costa Rica, and M. Marcoleta, the minister of the republic of Nicaragua, are about to proceed to Washington, each having been accredited also to our government, and will doubtless lay before you their disputes and grievances, for the settlement of which it is to be hoped that some plan may be devised.

M. Molina called upon me, not long since, to tell me that his government had granted to British subjects residing in this country a charter for a canal across the isthmus, which charter he had in his possession, and would retain, if I would give him a written guaranty that my government would see that Costa Rica had her rights—otherwise it would be given to the grantees—I declined, saying that I had no instructions to commit the government of the United States, and that I certainly would not commit myself, in the matter. I further told him that I had last year suggested to Lord Palmerston, in a note, the expediency (other difficulties being arranged) of determining the boundary disputes of these republics through the joint arbitration of Great Britain and the United States. (For this suggestion I refer you to my note to Lord Palmerston of December 14, 1849, enclosed in my No. 20.) M. Molina informed me that Lord Palmerston had said he would instruct Sir Henry Bulwer on the subject; whereupon I called on Lord Palmerston, who told me he had already instructed Sir Henry to call upon you and say that her Majesty's government desire to see all questions in dispute in Central America settled, that commerce may be extended, and peace maintained among the people of these republics.

It is of great importance to us that the inter-oceanic canal should be constructed; and, to that end, it is essential that peace should exist between the Central American republics—especially between Nicaragua and Costa Rica. I have no doubt the advice of yourself and Sir Henry Bulwer will have great weight with both these republics, and perhaps induce them to settle without further interference. It will afford me the greatest satisfaction to know that every obstacle tending to prevent the construction of the canal has been overcome.

My views as to the rights of these various parties, and of the Mosquito Indians, are contained in my No. 44.

I have the honor to be, sir, very respectfully, your obedient servant,

ABBOTT LAWRENCE.

HON. DANIEL WEBSTER,

Secretary of State, Washington, D. C.

[*The above letter appears as Document 41, in Special Message of President, 21st January, 1853, pp. 105-106.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

24th February, 1851.

(Mr. Marcoleta to Mr. Webster.)

[*Translation.*]

WASHINGTON, February 24, 1851.

The undersigned, envoy extraordinary and minister plenipotentiary of the republic of Nicaragua, has the honor of addressing himself to Mr. Daniel Webster, Secretary of State of the United States, for the purpose of submitting to him a few remarks relative to the construction which Great Britain has thought proper to put upon the treaty concluded between that power and the United States of the north, on the 19th of April, 1850.

It is publicly known that the object of the aforesaid treaty was to secure the most perfect liberty in the construction of the maritime canal through the isthmus of Nicaragua, and to guarantee the neutrality of that important route of interoceanic communication. There can be no doubt that, in order to attain these ends and with a view of avoiding all kind of difficulties in the faithful and honest performance of the stipulations of the treaty, the two powers have thought it proper to cause to be inserted the names of all the States, districts, and localities adjoining, or through which the aforesaid canal had to pass, and among them the Mosquito coast and country, which form and constitute, as they have always formed and constituted, an essential and integral part of the republic of Nicaragua.

The result of this has been, that Great Britain, being determined to construe to her own advantage the very letter and provisions of the treaty, addressed new instructions and communications to all her agents in Central America, especially to those residing in Nicaragua, announcing to them, in explanation of the text of the treaty,

that the government of the American Union had recognized the existence of the pretended king of Mosquito, and, consequently, the usurpation of the port of San Juan; and that the treaty of the 19th of April, 1850, so far from weakening the rights of the savage chief, confirms and strengthens them.

The undersigned, although fully satisfied as to the sentiments which animate the government of the Union, and the error into which the British government has fallen, cannot avoid addressing himself to Mr. Daniel Webster, Secretary of State, for the purpose of ascertaining whether the government of the United States really intends to recognize, in virtue of said treaty, the existence of a separate sovereign territory, independent of the republic of Nicaragua, commonly known by the designation of Mosquito coast and Mosquito country; and whether the present administration, which so wisely and so prudently rules the destinies of the republic, concurs in the opinions and avows the principles laid down in the dispatch which Mr. Clayton addressed to the chargé d'affaires of the republic, in Nicaragua, under date of May 7, 1850.

The undersigned begs that the Secretary of State will be pleased to give an answer to the questions contained in this dispatch as soon as possible, and to receive the assurances of his highest and most distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State of the United States.

[*The above letter appears as Document 5, in Special Message of President, 14th February, 1856, pp. 16-17.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

26th February, 1851.

(Mr. Marcoleta to Mr. Webster.)

[*Translation.*]

WASHINGTON, February 26, 1851.

Mr. SECRETARY: Under date of the 13th of October, 1850, the undersigned addressed a communication to Mr. Abbott Lawrence, United States minister in London, and one subsequently, dated the 18th of January, to Mr. Rives, who exercises the same functions near the government of the French republic, both of which notes contained the following declaration:

“SEÑOR MINISTER: The legation of Nicaragua has learned, from a reliable source, that the government of her Britannic Majesty has proposed to the government of the United States of America, as a means of settling the question of San Juan, the cession of that port to the State of Costa Rica. The tendency of this proposition being to deprive Nicaragua of her rights over this portion of her territory—rights which the forcible occupation of that port could not have destroyed; and, as this arrangement is moreover in opposition, not only to the interests of Nicaragua, but also to those of the American Company for the construction of the Atlantic Pacific canal, and this being a new occupation disguised under different forms, the undersigned declares, in the most peremptory, solemn, and positive manner, that his government, so far from being able or intending to accept this basis as the means of settlement, only sees in it a fresh act of injustice—a source of new difficulties and further complications.

“The government of Nicaragua cannot, under any circumstance, consent to this new spoliation, equally at variance with all principles of equity and justice—it were to renounce, on the contrary, all those rights which have appertained to her from time immemorial—rights which she has never ceased to maintain from January 1, 1848,—the epoch when the British naval forces took possession of San Juan, in the name of the pretended Mosquito king.

“The undersigned, therefore, begs that the American minister will be pleased to make the foregoing declaration known; and, in the mean time, he avails himself of this opportunity to tender him the assurances of his most distinguished consideration.”

As the undersigned is in possession of positive data, showing that the British government insists upon the arrangement alluded to, in furtherance of which it has prevailed upon the government of Costa Rica to set up false pretensions to the port of San Juan, I cannot do less than to repeat now the declaration which I made on the proper occasion to the representatives of the American government, both in London and in Paris.

The undersigned avails himself of this opportunity to tender to the Secretary of State the assurances of his most distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State, &c., &c.

[*The above letter appears as Document 6, in Special Message of President, 14th February, 1856, p. 18.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

28th March, 1851.

(Mr. Molina to Mr. Webster.)

LEGATION OF COSTA RICA,
WASHINGTON, March 28, 1851.

SIR: I have been specially instructed to represent, through your honorable medium, to the government of the United States of America that the republic of Costa Rica is very anxious to see the philanthropic views of this government in regard to Central America carried out, as contemplated by the ship canal convention entered into with Great Britain.

According to the provisions of that convention, both contracting powers, the United States and Great Britain, agreed to offer their good offices for the settlement of any differences existing between the States of Central America in regard to the territories over which the projected route shall traverse, with a view to remove the political difficulties embarrassing the execution of that great enterprise, and in the interest of humanity.

The government of the United States is probably aware that the republic of Costa Rica claims a right of dominion over all the country lying on the southern bank of the river San Juan, from the Atlantic ocean to the Lake of Nicaragua, as well as on that portion of the aforesaid lake comprised between Fort San Carlos and river La Flor, together with the right to the joint navigation of the above mentioned river San Juan and of Lake Nicaragua. Costa Rica consequently maintains that her concurrence and participation is necessary in order to open any interoceanic communication across the described localities. The State of Nicaragua refuses to recognize the validity of those claims, and pretends to exercise an exclusive control over all matters concerning said territories and said river and lake.

These differences have been for the last few years the subject of frequent discussions and misunderstandings between the governments of Nicaragua and Costa Rica, giving rise to an unnatural state of feeling between communities owing their existence to the same source, and connected by the ties of an equal religion and identical language, customs, and laws.

For its part, the government of Costa Rica, after having exhausted the means of arriving to a peaceful arrangement of such questions by a direct understanding with the neighboring State, as a sense of

fraternity and good policy would recommend, has come to the conviction that the only way left for a settlement is to submit the whole affair to the arbitration of disinterested parties.

It is under this impression that Costa Rica accepted long time ago the high mediation of the United States and Great Britain, and that she appeals now to the justice and good will of this government, trusting that it will, as the tutelar power of this continent, dispense to her the same considerations that Nicaragua has obtained, and not afford to the latter country, by treaty or otherwise, any countenance or support injurious to Costa Rica.

We are likewise led to hope that pending the settlement of the conflicting claims the government of the United States will be pleased to use its influence with the government of Nicaragua in order to prevent a collision which would only be attended with waste of life and property, and not with any final result.

The character of the present administration of the American Union, so highly distinguished for its wisdom and equity, is regarded by my government as a pledge that the reasonable demands of Costa Rica forming the subject of this communication shall be favorably listened to.

I think it, therefore, my duty to assure you beforehand that the names of the illustrious persons composing now the administration of this nation will forever occupy a prominent place in the grateful hearts of the Costa Rican people as the benefactors of that country.

With the renewed assurance of my high consideration and deep respect, I have the honor to remain, sir, your most obedient servant,

F. MOLINA.

Hon. DANIEL WEBSTER,

Secretary of State of the Government of the United States.

[*The above letter appears as Document 7, in Special Message of President, 14th February, 1856, pp. 19-20.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

31st March, 1851.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, March 31, 1851.

SIR: I have the honor to acknowledge the receipt of your note of the 28th instant, expressing the anxiety of your government to see

the philanthropic views of the government of the United States in regard to Central America carried out as contemplated by the ship canal convention entered into with Great Britain.

In reply, I have the honor to acquaint you that this anxiety is reciprocated by the President of the United States, who has determined to adopt, at once, all proper measures towards accomplishing the object. A distinguished citizen of this country, the honorable J. B. Kerr, late a member of the Congress of the United States, has been appointed and commissioned by the government of the United States as chargé d'affaires to that of Nicaragua. He will proceed on his mission about the 1st of May. Although accredited to the government of Nicaragua only, he will be directed by this department to visit the other governments of Central America, so far as may be in his power, to inquire into the causes of the controversies existing between them, and to urge upon all those governments the propriety of coming to terms of peace and amity between themselves. How desirable it is that those States should be united under one government! The President cannot willingly give up the hope that this will again be accomplished, and Mr. Kerr will be directed to express this sentiment respectfully to them all, and to suggest to their consideration how little the probability is that Central America, now a point so interesting to all nations, can ever attain her proper dignity and proper destiny while divided into so many small States. But if this should be found hopeless, he will still be directed to urge upon all those governments, in the most friendly manner, the necessity of an immediate cessation of hostilities. The interfering claims of the respective governments of Central America can hardly be expected to be justly settled by the sword, and war among such States must be equally ruinous to the conquerors and the conquered.

Mr. Molina will understand that these sentiments are here advanced from no motive but a sincere regard to the interests of that country. In all that exists in Central America and in all that may occur hereafter, the United States pursue no private or selfish end whatever. They will not withhold their good offices or their acts of kindness from any of those States. They wish them all to become prosperous and happy. Their desire for this warrants the government of the United States not to use any terms of control or dictation, but to signify its good will and to offer its advice with all proper earnestness.

The position of Central America on this continent, at the present moment, excites an extraordinary interest in the civilized

world. The lines of communication which are to connect the Atlantic and Pacific seas must, several of them, run through that country. In establishing these communications all civilized commercial States have a direct interest; and it may be taken for granted that this communication will be made, and therefore those governments cannot be too early nor too vigorous in their efforts to establish peace and harmony, if indeed they cannot establish political union among themselves, to the end that the rights of all may be protected and the whole country go forward in the progress of improvement.

I avail myself of this occasion, sir, to offer to you the assurance of my very distinguished consideration.

DANIEL WEBSTER.

Señor Don FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 8, in Special Message of President, 14th February, 1856, pp. 20-21.*]

34th Congress, 2d Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

7th May, 1857.

[*Translation.*]

(Mr. Marcoleta to Mr. Webster.)

WASHINGTON, May 7, 1851.

The undersigned, envoy extraordinary and minister plenipotentiary of the republic of Nicaragua near the government of the United States has the honor of enclosing to the Hon. Daniel Webster, Secretary of State, copies of two communications which have been transmitted to the government of Nicaragua, one by Mr. John Foster, British vice consul at Realejo, and the other by Mr. Frederick Chatfield, consul general and chargé d'affaires of England in Central America.

The character, contents, and date of these documents, have induced the government of Nicaragua to believe, and to feel convinced even, that Great Britain, notwithstanding the stipulations entered into, and the compromises solemnly agreed upon with the American government, on the 19th of April, 1850, designs to evade the exact fulfilment of the same, by giving a perverse and even a false interpretation to the letter and spirit of the provisions contained therein.

It has appeared to the government of Nicaragua, that compromises of this nature, the object of which is to assist in carrying out an undertaking of great magnitude, and of immense utility to the commercial world, ought to have been faithfully complied with, and fully carried into effect, immediately after the exchange of ratifications between the contracting parties.

Unfortunately, experience has shown the contrary; and proofs are accumulating daily to the effect that the only object which Great Britain has proposed to herself is to evade the compromises aforesaid, and to prolong a state of things which is fatal to the entire commerce of the world, contrary to justice and to equity, offensive to the dignity and independence of Nicaragua, and injurious to her interests and to the fostering and developement of her natural resources.

If to these considerations we add the insults and vexations which are daily inflicted by British officers and British agents, who, owing to the want of capacity on the part of the protected Mosquitos, exercise authority in the name of that savage tribe, against the honor, the dignity and the respect due to the government and the citizens of the republic, it should not be wondered at if the government and the people of Nicaragua, exasperated beyond endurance, were to overstep the boundaries of that moderation and forbearance which, until this day, have been the rule and the guide of their conduct.

Nicaragua is well aware that, under any other circumstances, her interference in the affairs of two great foreign powers might be liable to censure, as ill-advised and unreasonable; but in the present case, when the subjects under consideration affect, in so direct a manner, her interests, the integrity of her territory and her political existence, she thinks it her duty to be vigilant, and to protest, as she does protest through the medium of her representative, against those acts which bear ostensible evidence of a flagrant violation of solemn contracts and sacred compromises, which are so intimately connected with her political, territorial and mercantile interests.

The undersigned hopes, therefore, that the government of the United States, duly appreciating the contents of this despatch and those of the accompanying documents, will hasten to adopt some measures worthy of the noble principles which constitute the foundation of American policy, and in harmony with the good and friendly relations and the interest which the government and people of the United States have manifested, and still continue to manifest

daily, towards their sister republic of Nicaragua, to which they are bound by so many intimate ties, that are happily being drawn closer and closer between them.

The undersigned avails himself of this opportunity to renew to the honorable Mr. Webster, Secretary of State, the assurances of his most distinguished consideration.

J. DE MARCOLET A.

Hon. DANIEL WEBSTER.

[INCLOSURE NO. 1.]

[*Translation.*]

BRITISH VICE-CONSULATE,

REALEJO, October 12, 1850.

SIR: I have the honor to inform you that I have received from Mr. Robert Smart, captain of her Britannic Majesty's ship *Indefatigable*, and an old officer of the protective forces, a note, dated the 14th of September last, from Greytown, to which point he has been sent by the commanding officer of her Majesty's naval forces at Jamaica.

Captain Smart was ordered to communicate to the government of Nicaragua the tenor of his instructions.

"The treaty which has lately been concluded at Washington between Great Britain and the United States, for the construction of a maritime canal to connect the Atlantic and Pacific oceans, having been perversely interpreted by certain parties as a withdrawal of the protection which the first mentioned power has hitherto granted to the Mosquito nation, her Majesty's government has thought proper to locate the forces aforesaid in Greytown and its vicinities, for the purpose of showing that it was never intended to make any such concession; and while this measure is taken to secure the rights of the Mosquito king, every facility will be given to the parties engaged in the construction of the canal across his territory, agreeably to the provisions of said treaty. In making this communication to the government of Nicaragua, Captain Smart invites the latter to meet him in a spirit of conciliation, in order to settle all existing difficulties, and to avoid all possible violation of treaties actually in force."

Such, sir, is the substance of Captain Smart's note, and being fully convinced, as I am in fact, that great advantages will accrue to Nicaragua and to Mosquito by the removal of all causes of irritation, which only tend to increase the number of disagreements between them, and to retard that prosperity which is at present dawning upon them, I shall be excused for referring, in this place, to the last paragraph in Mr. Chatfield's note of the 2d of September, addressed

to you, sir, in which he points out "the means by which all existing difficulties can be honorably settled;" towards which object every assistance will be given by your most obedient servant,

JOHN FOSTER, Vice Consul.

The PRINCIPAL SECRETARY
Of the Government of Nicaragua.

True copy:

J. DE MARCOLETA.

[INCLOSURE No. 2.]

[*Translation.*]

LEGATION OF HER BRITANNIC MAJESTY,
GUATEMALA, December 5, 1850.

The government of Nicaragua having systematically slighted the frequent propositions which have been made to the republic of Nicaragua, in the name of her Majesty the queen of Great Britain and Ireland, as representing the king of Mosquito, with a view of determining, by means of some formal arrangement, the boundaries between the dominions of the aforesaid king of Mosquito and the territory of the republic of Nicaragua, her Britannic Majesty has come to the conclusion that the interest and comfort of both parties require that this point should not any longer remain unsettled; and, as a proof of the conciliatory spirit which actuates her Britannic Majesty on this subject, it has been resolved to declare that the boundaries of the territory of Mosquito, on that side which is contiguous to Nicaragua, will be considered the same as those which were designated for that kingdom on the 15th of September, 1821, when Nicaragua, as a portion of the ancient kingdom of Guatemala, made herself independent of the Spanish monarchy. This basis being established, the respective localities of the two countries are determined according to the civil and ecclesiastical regulations, which have been in force in Nicaragua—supposing that the towns and villages which are situated on the Mosquito frontier, with municipal and parochial authorities, remain as they have been until now; forming a part and being under the jurisdiction of the government and authorities of Nicaragua. The existing incorrectness of geographical datas, in regard to the interior of Central America, does not allow, for the present, the possibility of determining the latitude and longitude of places appertaining to Nicaragua, at a distance from her eastern and north-eastern frontier; but circumstances require that the general line of the boundaries which her majesty's government is disposed to maintain as Mosquito territory should be designated—the government of Nicaragua having refused to enter into a

friendly discussion, and to appoint commissioners to that effect for settling the boundary line between the two territories. With this view the undersigned, chargé d'affaires of her Britannic Majesty in Central America, has the honor of informing the minister of the supreme government of Nicaragua, that the general boundary line of the dominions of Mosquito runs from the northern extremity of the line which separates the district of Tegucigalpa in Honduras from the jurisdiction of New Segovia in Nicaragua; and following close upon the northern frontier of New Segovia, runs off from the southeastern boundary of the district of Matagalpa and Choutales, and from thence, in an eastern direction, as far as the borders of Machuca, in the river San Juan. In order to avoid all possible mistake or misunderstanding, in regard to the villages which have belonged to Nicaragua from the period previous to her independence in 1821, there has been annexed to this note a list of the parish districts and their dependencies in the diocese of Nicaragua, which, with their respective demesnes and private estates, with their due titles, that are found situated on the eastern and northeastern frontier of Nicaragua, it is understood, are considered as without the limits of Mosquito on the frontier of Nicaragua. In conclusion, the undersigned, in stating that the line referred to above is that which is considered as constituting the boundary between the two countries, begs to repeat that her Britannic Majesty is determined to maintain the same in the name of the king of Mosquito, without relinquishing, on this account, the disposition to negotiate and to enter into a friendly agreement with the government of Nicaragua, upon a firm basis, for the final settlement of these questions. The undersigned hopes that the government of Nicaragua will perceive the expediency of coming to a friendly understanding with the government of Mosquito; because it is obvious that neither the canal nor any other means of communication through the isthmus can be fully established until the difficulties which have been started by Nicaragua, upon this point, are settled and put at rest.

The undersigned avails himself of this occasion, &c.,

FREDERICK CHATFIELD.

The MINISTER OF RELATIONS

Of the supreme government of Nicaragua, Leon.

LEON, January 4, 1851.

True copy—there is a signature.

SALINAS.

Extract from the table of parish districts in the bishopric of Nicaragua, jurisdiction of New Segovia.

Segovia, its dependencies; Mozonte and the Ocotal; the town of St. Antonio de Esteli; the Xicaro; S. A. Jalapa; Tepezomoto; S. A. Pueblo Neuvo; Iotogalpa and Haquina.

District of Matagalpa.

Matagalpa; S. A. Sebaco; Muimui; San Ramon Xinotega Jeustepet; S. A. Baco Camuapa y Comalapa; Palacaguina; S. A. Condega y Tespanega; Acoyapa.

True copy:

J. DE MARCOLETA.

[*The above letter and inclosures appear as Document 9, Inclosures 1 and 2, in Special Message of President, 14th February, 1856, pp. 21-25.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

8th May, 1851.

(Mr. Molina to Mr. Webster.)

WASHINGTON, May 8, 1851.

The undersigned, minister plenipotentiary of Costa Rica, has the honor to transmit herewith, to the Hon. Mr. Webster, Secretary of State of the United States, a copy of a "memoir" on the boundary question pending between the republic of Costa Rica and the State of Nicaragua, which he has considered his duty to publish, as representative of that republic.

He begs, likewise, to hand the three accompanying manuscript copies, viz:

(A.)—Copy of the charter granted by the king of Spain, in 1540, to Diego Gutierrez, for the purpose of settling the province of Cartago, (Costa Rica,) and conferring upon him the title of governor. Extracts of other records, referring to the commencement of that colony, are annexed thereto.

(B.)—Copy of the charter granted by the king of Spain, in 1574, to Diego de Artieda, appointing him governor and captain general of Costa Rica.

(C.)—Copy of a report sent to the court of Spain, in 1719, by Diego de la Haya, the then governor of Costa Rica, describing at length the condition in which the province was at that period.

The portions of those documents that have not been transcribed in the accompanying copies were only such as appeared quite irrelevant to the subject in question.

It is in compliance with the instructions of his government that the undersigned hastens now to lay before the honorable Secretary of State the aforesaid memoir and ancient records for the information of the American government. He ventures to think that these papers afford the strongest evidence of the justice of Costa Rica in her claim to the territories and rights in dispute, as well as of the moderation that has always guided her counsels; and he flatters himself that their perusal will suffice to secure, in behalf of the country he represents, the kind interest and good opinions of the cabinet of Washington, which Costa Rica values in the highest degree, and is so anxious to deserve.

Although, as set forth in the report above mentioned, Costa Rica believes she has a clear title to repute as belonging to her dominion the southern portion of the harbor of San Juan, now occupied under the authority of the Mosquito king with the assistance of Great Britain, she has abstained heretofore from bringing forward such a claim out of regard for the friendly relations existing between herself and Great Britain, and in the hope of being enabled, at some future day, to effect through negotiation a satisfactory arrangement. It will be perceived, moreover, that the circumstances in which Costa Rica has been placed rendered this line of policy the only one open to her.

However, in the event of any change taking place in respect to the aforesaid port of San Juan, the republic of Costa Rica will think herself called upon to sustain her claim to it, which is equally as good as that of Nicaragua, and she feels confident that her rights will be taken into consideration, and that the government of the United States will exercise its influence to have those rights duly recognized by Nicaragua, not only in reference to that locality, but likewise in reference to the whole frontier maintained by the republic.

It is hardly necessary to add, that having accepted, a long time since, the proffered mediation of the United States and Great Britain for the settlement of the questions alluded to, Costa Rica will gladly and thankfully listen to any suggestions that both powers may think proper to make on the subject, trusting that some means may be devised to facilitate the earliest and most satisfactory termination of these questions, as the interest of all the parties concerned does require.

The undersigned profits of this opportunity to renew to the honorable Secretary of State the assurances of his high consideration and deep respect, as his most obedient humble servant.

F. MOLINA.

Hon. DANIEL WEBSTER,
Secretary of State.

[INCLOSURE A.]

(Charter granted to Diego Gutierrez, and other records respecting the ancient Province of Costa Rica—1540.)

(Omitted.)

[INCLOSURE B.]

(Charter granted to Don Diego de Artieda, appointing him Governor of the Province of Costa Rica—1574.)

(Omitted.)

[INCLOSURE C.]

(Report sent by Don Diego de la Haya, Governor of Costa Rica, to the Court of Spain in 1719.)

(Omitted.)

[*The above letter and inclosures appear as Document 10, Inclosures A, B and C, in Special Message of President, 14th February, 1856, pp. 25-41.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

8th May, 1851.

(Mr. Molina to Mr. Webster.)

WASHINGTON, May 8, 1851.

SIR: Having understood that you intend to enter soon into conferences with the Nicaraguan minister in regard to the treaty concluded by Mr. Squier, the late chargé d'affaires of the United States to Nicaragua, with the government of that country, and ob-

serving that the 35th article of the treaty in question contains stipulations which are evidently injurious to Costa Rica, inasmuch as her right to the joint sovereignty over the port of San Juan, over the river of the same name, and over the navigation of Lake Nicaragua is not therein taken into account, I make bold to call your attention to that point, and have to request that you be so good as to adjourn the closing of the negotiation alluded to until you have examined at leisure the documents which I have presented to-day, and which, I expect, will leave no doubt in the mind of the American government as to the justice of the claims of Costa Rica.

I have the honor to remain, with the highest consideration, sir, your most obedient humble servant,

F. MOLINA.

Hon. DANIEL WEBSTER,

Secretary of State of the United States, &c., &c., &c.

[*The above letter appears as Document 11, in Special Message of President, 14th February, 1856, pp. 41-42.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

3d June, 1851.

(Mr. Marcoleta to Mr. Webster.)

[*Translation.*]

Mr. Secretary of State:

WASHINGTON, June 3, 1851.

MY DEAR SIR: In the message which the President of the United States addressed to Congress on the 22d July, 1850, relative to the events and the occupation of the island *del Tigre* by the British naval forces, there is, page 180, document B, a literal translation of a note which Lord Palmerston addressed to Señor Castellon on the 16th of July, 1849, on the subject of the port of San Juan and the Mosquito coast.

Having been charged by my government to continue the mission of Señor Castellon in London, I deemed it my duty to reply to said note, stating the grounds upon which Nicaragua bases her rights to the possession of the territory, which the British government disputes.

As this reply is not to be found in the aforesaid message, and thinking it may serve to throw some light upon the question, I have

the honor of sending the annexed copy to the department, with a view of its being considered along with the other documents which have reference to this important question, in order to effect the objects aimed at. The government of Nicaragua fully hopes that, when the Secretary of State shall have possessed himself of the contents of the document herewith enclosed, he will allow it to exercise a proper weight in the estimate of the justice and reason that concur on the side of Nicaragua in this vital question of her political existence, and in support of her legitimate rights to so essential a part of her territory such as the coast and country of Mosquitos.

I avail myself of this new opportunity, Mr. Secretary of State, to renew to you the assurances of my highest consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State.

[INCLOSURE.]

[*Translation.*]

LONDON, October 27, 1849.

My Lord: The undersigned, chargé d'affaires of the State of Nicaragua, has the honor to acknowledge the receipt of copies of two notes which the right honorable Viscount Palmerston, her Britannic Majesty's secretary of state for foreign affairs, addressed to Mr. Castellon, respectively, on the 16th and 17th of July last.

The undersigned having been instructed by his government to continue to cultivate relations of friendship and good understanding between the two countries, and to follow up the discussion of those questions which may be of interest to the two governments, especially the one alluded to in the first of the two notes aforesaid, he thinks it his duty to address a few remarks to the right honorable Viscount Palmerston on the contents of said note, always excepting that portion of it which relates to the debt of Nicaragua in favor of English subjects, the latter having reserved themselves for an understanding on the subject with the government of the State through the interposition of her Majesty's consul in Central America.

The bases upon which the right honorable Viscount Palmerston thinks it proper to rest his principal argument in the note of the 16th of last July are, firstly, that the Mosquito territory did not form an integral portion of the Spanish dominions in Central America; secondly, that in the treaties of 1783 and 1786, between England and Spain, it was less a question of proving the rights of the last

mentioned power as to regulate the relations of British subjects who exercised their industry and carried on their trade along the coast with the inhabitants of the country and the authorities which the Spanish government had established there.

Upon bases like these the British Government seems disposed to demonstrate the unfairness of the claims of the State of Nicaragua to the possession of the port of San Juan.

That Spain has always considered the territory and the coast of Mosquito as constituting an integral portion of her territory and sovereignty in Central America is an incontrovertible point, and a question which has already been authoritatively settled; at least it is so proved by the law entitled "*Recopilacion de Indias*," No. 6, chapter 15th, book 2d—a law by which the administration of justice in the kingdom of Guatemala was regulated; which kingdom literally and textually received as boundaries the northern sea on one side and the southern sea on the other. The tenth article of the constitution of Cadiz, of the 19th March, 1812, declared that Guatemala and the interior provinces to the east and west, as well as the islands contiguous to the two seas, constituted an integral part of the Spanish dominions.

Consequently, that power has always exercised acts of possession and of sovereignty over all those coasts, such as the royal ordinance of October 18, 1792, the object of which was to establish a custom house at the cape of *Gracias á Dios*; that of February 26, 1796, declaring the port of San Juan open to commerce; that of March 28, of the same year, for the purpose of encouraging cotton plantations; for building a town in the port aforesaid, and for constructing flat boats suitable to the navigation of the river, and, finally, the ordinances of the 5th and 20th November, 1803, granting privileges to those who might come to settle at Rio Tinto, at Bluefields, and at Cape Gracias á Dios.

The undersigned does not believe that any argument or solemn protestations, on the part of the British cabinet, can set aside the legal declarations and royal ordinances above mentioned: he knows only that England has always recognized the Spanish government, and that the recognition of the constitution of Cadiz, of March 21, 1812, contained no reservation whatever.

It is most true, however, that British subjects had previously gone to establish themselves on the Mosquito coast; that one of the governors of Jamaica (Lord Albemarle,) was the first to give the title of king to one of the chiefs of the wandering tribes that overrun the territory of Mosquitos; but, independently of the fact that such establishments and such concessions cannot constitute a right, it is also clear that, in consequence of certain claims on the part of Spain, negotiations were set on foot, which led to the formation of public and solemn treaties, the first of which was signed in Paris on the 10th of February, 1763, and the seventeenth article of which stipulates, firstly, the demolition of the forts which have been erected in the bay of Honduras and in other parts of the Span-

ish territory in the New World; secondly, the guarantees and concessions which the Spanish government had granted to British subjects engaged in cutting, transporting and freighting logwood, with perfect enjoyment of those advantages *on the coasts* and other portions of the American continent subject to Spain.

Causes and motives which are already known, subsequently led to the conclusion of the treaty of 1783, and to the convention of 1786, concerning which it would be useless to enumerate the articles having special reference to the object now under discussion.

All these acts, having again received the sanction of the two governments, serve to prove that Spain maintained, and that England recognized, the rights which the first mentioned power exercised over those countries; for how could it be possible that the British government would have consented to abide by, and to submit to, certain conditions and stipulations, and to conform to territorial boundary lines which had been drawn by a power in a country which did not belong to it?

It would have been more regular and more rational for Great Britain to have treated directly with the sovereign, or with the government of that country, if there had really been one in existence.

It is most true, also, that the word *frontier* occurs in the 14th article of the convention of 1786, but the undersigned is induced to believe that the introduction of this word originated in some slip of the pen on the part of the writer, rather than in the existence and conviction of such a fact, because that word is flagrantly at variance with the sense and the text of the other articles, contained in the treaty of 1783 and in the convention of 1786.

The term *frontier*, moreover, indicates certain points of separation already agreed upon; it is a line of demarkation between two neighboring countries, foreign to each other, established by competent authority, and by commissioners appointed *ad hoc* by the parties interested. Is there any act of this description, in existence, therefore, which could be cited, in support of the interpretation, which, the right honorable Viscount Palmerston thinks it his duty to give to the 14th article of the aforesaid convention?

Again, it is generally recognised as a principle, that all treaties, besides the signature of plenipotentiaries, must also contain a pledge of honor, morally given by the high contracting parties, for carrying out the provisions of such treaties, not only in regard to the letter of the same, but in relation to the very spirit of the clauses inserted therein. The British government was perfectly well aware what were then the interests of Spain in negotiating about the matter; nor was the said British government ignorant of the fact, that the latter power would not have signed those conventions if England had refused to recognize the rights which Spain was exercising over the territory and the coast of Mosquito.

The term *frontier*, therefore, which is mentioned in the dispatch of the right honorable Viscount Palmerston, can only refer to the demarkation of certain

points which separate two countries already civilized from those that are not so; as it is the case in Brazil and in the United States of North America.

The acts of the governors of Jamaica—Lord Albemarle and Sir — Dallas —being of a date long previous to the stipulations and the treaties mentioned above, cannot serve as precedents, for the purpose of establishing an actual right, seeing that the tendency of these very treaties is to destroy the traces of such acts.

Having already proved that Spain exercised sovereignty over the territory in question, and that England had recognized that sovereignty by public and solemn treaties, the undersigned is of opinion, that Central America, and especially Nicaragua, could claim to exercise the rights belonging to them, in virtue of the very act of independence, and a possession which has neither been interrupted nor disputed, until these latter times, without incurring the application of the *res inter alios*, inasmuch as the same could not have been applied to the old country.

And if there is no formal declaration in existence relative to the recognition, by Spain, of the independence of the Central American States, that independence, may, at least, be considered as virtually recognized, since the Spanish Cortes, at their sitting of September 3, 1836, authorized the government to conclude treaties with the new American States, because the political condition of those states was considered as a positive fact.

Nicaragua, then, has been at liberty, freely and legitimately, to exercise her rights of sovereignty over the whole extent of her territory; and Great Britain has never dreamed, since the period of the independence of that state, until recently, to support what are called the rights of the Mosquito chief; but on the contrary, she recognized the various constitutions of the country, where the boundaries had been legally defined. At the period when the confederacy of the States contracted a loan with the house of Barclay, the cabinet of St. James entered no protest in regard to the guarantee which was given to that house, based upon the revenues of the port of San Juan.

The right honorable Viscount Palmerston declares, in his note of the 16th of July last, already alluded to, that in his opinion, and according to the opinion of several other authorities, the territory of Mosquito comprises the mouth of the river San Juan. Admitting this hypothesis for an instant, the government of Nicaragua is, and ought to be, very much surprised that Mr. Christie should, on his own authority, have carried the boundaries of that territory beyond the mouth of the Serapiqui, thirty miles above, and as far as the rapids of Machuca. The government of her Britannic Majesty is sufficiently just and sufficiently enlightened to understand that this invasion has been accomplished without any participation on the part of the government of Nicaragua, which was not consulted on the subject, nor yet apprised of the fact, nor even called upon to maintain its rights, in that division of territory. The aforesaid government has been obliged to yield before the necessity, imposed upon it by supe-

rior force, although in hope that the British government would not turn a deaf ear to the voice of justice and of reason.

If, on one side, the right honorable Viscount Palmerston believes himself sufficiently justified in approving and sustaining what has been done at the port of San Juan, since the 1st of January, 1848, down to this day, the government of Nicaragua, on the other side, has reasons, no less equitable and powerful, to vindicate its rights, with that moderation which characterizes it, and at the same time with that persistency of purpose which is derived from conviction, and from the justice of the cause it advocates, without giving up the hope that its claims will finally be listened to, and duly appreciated, by a just and enlightened government, which prides itself upon its adherence to principles of distributive justice, which do not allow an interested party to constitute itself judge of a matter in dispute.

Consequently, the undersigned is thoroughly convinced that the government of her Britannic Majesty will not fail to submit the question now pending to arbitration, to which decision the government of Nicaragua submits in advance, as a proof of the desire which actuates it to preserve friendly relations with the British government; relations which may lead to a happy future, by developing the mercantile resources of the two countries, called upon respectively to fulfil a great destiny, a destiny which one of them has already, most fortunately, achieved, and which the other might easily attain, if the immense natural advantages she possesses, in every point of view, are not stifled in the birth.

The undersigned is also fully persuaded that the right honorable Viscount Palmerston will please to take into serious consideration the contents of this dispatch, and accede to the propositions mentioned above, as the only and most efficacious mode of terminating the question in a manner at once the most honorable for the British government, and the most advantageous to both countries.

The undersigned avails himself of this occasion to renew to the right honorable Viscount Palmerston, the assurance of the high consideration, with which he has the honor to remain his lordship's most humble and very obedient servant,

J. DE MARCOLETA.

True copy:

J. DE MARCOLETA.

[The above letter and inclosure appear as Document 12, Inclosure 1, in Special Message to the President, 14th February, 1856, pp. 42-47.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

6th June, 1851.

(Mr. Webster to Mr. Kerr.)

[No. 4.]

DEPARTMENT OF STATE,
WASHINGTON, June 6, 1851.

SIR: On the third of September, 1849, a treaty between the United States and Nicaragua was signed at Leon, the 35th article of which relates to a ship canal between the two oceans through the territories of that State; refers to a contract entered into on the 27th of August, 1849, between the republic of Nicaragua and a company of citizens of the United States, styled the "American Atlantic and Pacific Canal Company," requires the United States to recognize the rights of sovereignty and property which Nicaragua possesses over the line of said canal, and guaranties the neutrality thereof, so long as it shall remain under the control of the citizens of United States. This treaty was submitted by the President to the Senate in March, 1850. On the 19th of April next ensuing, however, a convention upon the same subject between the United States and Great Britain was signed in this city, by the 6th article of which it is stipulated that, if any differences should arise as to right of property over the territory through which the said canal shall pass, between the States or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exists between the contracting parties.

Although it may be taken for granted that a part of the line of the canal here referred to would be in the bed of the river San Juan, or on the northern or southern bank of that stream, it is obvious that it would have been premature for the United States to assume the guaranty stipulated in the treaty with Nicaragua, until the position of the canal had been determined upon. The department is not aware that this has yet been done. It is well known, that for some time past there has been a dispute between the States of Nicaragua and Costa Rica respecting their boundary, and it is certain that until this shall be adjusted the United States

could not undertake to guaranty to Nicaragua dominion over the line of the canal without, impliedly at least, deciding that dispute in her favor, and engaging to maintain that decision by force, should this become necessary. Though the President appreciates the friendship of Nicaragua, he cannot consent even to risk doing an injury to any one of the other Central American States, by determining, without due examination, a controversy which it may have with any other of those States. If, however, a sense of duty were not sufficient to prevent the adoption of such a course on our part, the stipulation in our treaty with Great Britain, above referred to, makes it a positive obligation.

On the 5th of August last, Mr. Molina, the minister of Costa Rica at London, addressed a note to Mr. Abbott Lawrence, stating that his government, fully concurring in the philanthropic views set forth in the convention signed at Washington on the 19th of April, 1850, was willing to submit the question of her rights over the territories in dispute between Nicaragua and herself to the combined mediation of the United States and Great Britain, and to regard their joint decision as final, provided that Nicaragua shall have previously placed herself under a similar obligation. Mr. Molina is now the minister of Costa Rica at Washington. You will herewith receive a copy of a recent correspondence between him and the department upon this subject. In his note of the 31st of March, he states that his government claims a right of dominion over all the country lying on the southern bank of the river San Juan, from the Atlantic ocean to the Lake of Nicaragua, as well as on that portion of the aforesaid lake comprised between Fort San Carlos and river La Flor, together with a right to the joint navigation of the above mentioned river San Juan and of Lake Nicaragua. If, therefore, the line of the interoceanic canal should be on the south side of the river or in the bed thereof, a guaranty by us to Nicaragua of dominion over it would be in defiance of the claim of Costa Rica referred to. Under these circumstances, you will represent to the government of Nicaragua that this government cannot undertake to guaranty the sovereignty of the line of the canal to her, until the course which that work shall take with reference to the river San Juan and its terminus on the Pacific shall be ascertained, and until the differences between Nicaragua and Costa Rica, respecting their boundary, shall be settled. You will suggest that it would be advisable for them to empower the minister of Nicaragua here to adjust the question of limits, and, you may

add, that it is quite probable, if it should be adjusted under the auspices of both Great Britain and the United States, that adjustment might be made to embrace a settlement of any other question which Nicaragua may have with other powers respecting her territories on the Carribean sea. If, however, the Nicaraguan government should refuse to authorize Mr. Marcoleta to negotiate upon this subject, you will then intimate to her authorities that the United States will not regard with indifference any attempt on her part to wrest by force from Costa Rica any territory of which the latter State may now be in peaceable possession.

I am, sir, very respectfully, your obedient servant,

DANIEL WEBSTER.

J. BOZMAN KERR, Esq., &c., &c., &c.

[*The above letter appears as Document 13, in Special Message of President, 14th February, 1856, pp. 47-48.*]

34th Congress, 1st Session.
Senate Ex Doc. No. 25.
In Vol. 10.

6th June, 1851.

(Mr. Webster to Mr. Kerr.)

DEPARTMENT OF STATE,

WASHINGTON June 6, 1851.

SIR: If an inquiry should be addressed to you, in Nicaragua or elsewhere in Central America, as to whether the United States have recognised the Mosquito kingdom, or contemplate such a measure, you may answer decidedly in the negative. Any other course would be at variance, not only with the policy hitherto pursued by the United States in regard to the aboriginal inhabitants of the American hemisphere, but also with that of the European nations who made discoveries and planted colonies there.

I am, sir, very respectfully, your obedient servant,

DANIEL WEBSTER.

J. BOZMAN KERR, Esq., &c., &c., &c.

[*The above letter appears as Document 14, in Special Message of President, 14th February, 1856, p. 49.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

10th June, 1851.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, June 10, 1851.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Molina, envoy extraordinary and minister plenipotentiary of the republic of Costa Rica, accompanied by a printed memoir and documents in manuscript relative to the boundary between that republic and the republic of Nicaragua. In reply, the undersigned has the honor to acquaint Mr. Molina that his communication will be taken into respectful consideration.

The undersigned avails himself of this occasion to offer to Mr. Molina renewed assurances of his very distinguished consideration.

DANIEL WEBSTER.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 15, in Special Message of President, 14th February, 1856, p. 49.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

21 June, 1851.

(Mr. Molina to Mr. Webster.)

WASHINGTON, June 21, 1851.

SIR: In compliance with your desire, I here proceed to state to you what I consider to be the pretensions, claims, and rights of Costa Rica with respect to the river San Juan and the territories in dispute between her and Nicaragua. They are as follows:

The republic of Costa Rica maintains, in my opinion, with perfect justice and on the most clear titles, as her frontier, the whole course of the river San Juan and the shores of the Lake of Nicaragua from the place where that river issues from the lake to a point opposite the mouth of the river La Flor, on the Pacific, including, of course, in this demarcation the district of Guanacaste, otherwise called Nicoya. Costa Rica likewise claims an equal right with Nicaragua to the navigation of the aforesaid river San Juan and of the lake,

and to the dominion of Port San Juan. These propositions I undertake to demonstrate in open conferences or debates with the minister of Nicaragua.

Consequently, my government is under the impression that no interoceanic communication ought to be established through the port, river and lake in question without the consent of Costa Rica, and her participation in all the direct and indirect advantages to be derived from said undertaking, and that Nicaragua, when contracting for said enterprise on her sole authority, has encroached on the rights of Costa Rica.

Nicaragua, on the other hand, assumes that she has a right to the exclusive navigation of the river San Juan and of the lake; that the port of San Juan appertains solely to her; that the territory of Costa Rica does not extend to the southern bank of the river San Juan, but instead of that ought to be bounded by a line drawn from a point on the Atlantic, situated midway between Port San Juan and Port Matina to the river Salto; and, finally, that the district of Guanacaste is a part of Nicaragua, and not of Costa Rica.

In order not to make this communication too long, I refer you, for the grounds on which the case of Costa Rica principally rests, to the memoir and documents that I have had the honor to transmit to you, and of which I beg to call your attention to the annexed extracts, (inclosures Nos. 1, 2 and 3.)

Having thus briefly stated what I consider to be the right of Costa Rica, I shall venture, as briefly as possible, to indicate the manner in which, it appears to me, the difference between her and Nicaragua may be amicably arranged.

The first observation here to make is, that I am prepared to enter into an engagement in the name of my government that all the questions should be settled by the arbitration of the United States and Great Britain, it being understood that if they (the said powers) differ in any point, that difference should be decided by reference to a third power on whom they should mutually agree. Spain, from the affinity which still exists between the people of Central America and the country from which they take their origin, is the State which appears to me would, in case of a necessity of any such a third arbiter, be chosen with most satisfaction to both the interested parties.

You may, however, further require from me what I think would be the most just and easy mode of settling by adjustment

or compromise those questions on which it may be difficult to form any absolute decision. With regard to this point, having already called your attention to the fact that Nicaragua has not only assumed to herself the sole right of navigating the river San Juan, but has actually granted that and other rights appertaining thereto to a company, without any consultation with, or benefit conferred upon, Costa Rica, I should suggest, in order not to interfere with the great work at present contemplated, that Costa Rica should consent to the grant that has been made by the State of Nicaragua without deriving any benefit whatsoever therefrom (it being always understood that she retains the right of transit upon the same river) in consideration of some equivalent. The first and most natural thing to conceive is that which, in reality, offers no point of dispute, namely: the territory to the south of the port of San Juan, which I think I can without hesitation assert is already indubitably the right of Costa Rica.

The second would be the abandonment of Nicaragua of her claim over the territory of Guanacaste. If, however, it were found more convenient for the general settlement that the town now called Greytown, and occupied by the Mosquito people under the protectorate of Great Britain, should be ceded to the government of Costa Rica, together with a certain territory adjoining thereto, in virtue of some concession made by Costa Rica with regard to a portion of the territory of Guanacaste, lying on the lake and on the river San Juan, Costa Rica would accept this arrangement, though she would do so to her disadvantage, inasmuch as she could derive no particular benefit from it, for the following reasons: 1st. Possessing as she does a legitimate right to the southern side of the harbor, the acquisition of the northern side is not an object of vital importance to her. 2d. If after resigning her share in the profits of the interoceanic route, which is in itself a consideration of immense value, Costa Rica is to give besides a portion of Guanacaste, she would have then given more than she receives. 3d. The lands of Guanacaste are of a far greater value to Costa Rica, than the territory on the northern side of port San Juan, because the former are bordering on the towns and cattle estates of the republic. 4th. By the dismemberment of a portion of Guanacaste. Costa Rica would lose a part of that natural and well defined line of boundaries which she is intent on maintaining, and which has been of the greatest consequence since the two countries (Costa Rica and Nicaragua) became separate nationalities.

This last suggestion brings me to a point which is now of much importance, and on which you have requested my opinion, to wit: "In what manner the question as to the occupation of Greytown, if the Mosquito government is withdrawn therefrom, can be arranged." One mode of disposing of this matter is that which I have just alluded to. Another would be that of placing the port of San Juan under the joint rule of the five republics of Central America, in which case Costa Rica would cede a certain extent of territory on her side of the harbor, in favor of such a union. This plan offers the advantage of affording a common object to the alliance of those republics amongst themselves.

A third manner would be that, if Nicaragua could in any way obtain from Great Britain the transmission of Greytown to herself, and from Costa Rica the cession of all those profits that the latter might be entitled to derive from the company to which Nicaragua has granted the navigation of San Juan; the State of Nicaragua should abandon her pretensions to any of the territories claimed by Costa Rica, recognizing at the same time, purely and simply, our whole line of frontier, and our right of transit over the waters of the river San Juan and up lake Nicaragua. As this, however, involves the consent of Great Britain, which it may be difficult to obtain, I can only speak of it as an arrangement which would be received with satisfaction by my country.

Before concluding these remarks, I should wish to draw your attention to a subject bearing on the preceding questions, and especially connected with the general happiness and prosperity of Central America, namely, "the expediency of devising some mode, either by mediation on the part of the two friendly governments of Great Britain and the United States, or by the construction of some board of arbitration, formed by the different States of Central America themselves, for the peaceful adjustment of all subjects of litigation which may give rise to unnecessary wars between them."

I add a short memorandum as to what I know of the Mosquito coast from the period of its discovery to the present time.

I take this opportunity to renew to you the assurances of my highest consideration and deep respect, and have the honor to remain, sir,

Your most obedient humble servant,

F. MOLINA.

Hon. DANIEL WEBSTER,
Secretary of State.

[INCLOSURE.]

(Memorandum on the Mosquito Coast.)

The lands on the northern side of the river San Juan, from their discovery by the Spaniards to the present date, have always been unoccupied. There lies Mosquitia, called by the Spaniards Tologalpa, (see Juarros,) which during the colonial period was considered as a province or rather a territory of the government of Nicaragua. It is a curious fact that the Mosquito coast was included in the charters granted by the Spanish monarchs to the first settlers of Costa Rica. The principal attempt made by the Spaniards to colonize that territory was the foundation of the city of Jaen, about thirty leagues north of the river San Juan, which took place nearly two centuries ago; but that city was not long time in existence. I believe they never tried to form any establishments on the sea coast, but in several instances they undertook, although unsuccessfully, the civilization of those Indian tribes bordering on the settled portions of Honduras and Nicaragua.

The insalubriousness of the climate, the scanty numbers of the aborigines, and the depredations of pirates, were a constant check to the civilization of that territory. It is next to impossible to colonize such countries, without finding on the spot the assistance of plenty native labor, or undertaking the importation of Africans or some other dark race from elsewhere.

The river San Juan was known to the Spaniards from a very early date, but they only erected two military settlements on its banks, namely: the fort of San Carlos, at the place where the river starts from the lake, and another fort twelve leagues below, built at the end of the seventeenth century on the southern bank, which was then called "Castillo de la Concepcion," and at present is known by the name of "Castillo Viejo," on account of its having been abandoned and fallen to ruins since the beginning of this century.

Besides those forts, military guards used to be posted in time of war all along the river, as far as its entrance into the Atlantic.

It was not until after the independence in 1824, when the federation of Central America having been organized, a custom-house was established at the port of San Juan, and a small garrison was placed there, and a few people began to collect under the influence of those establishments.

The federal rule lasted from 1824 to 1838, when the Nicaraguans took possession of the port and held the same until 1848. As the independence was achieved throughout Central America without any struggle, and as there did not exist at that time any royalist garrison at the port, neither the Nicaraguans nor anybody else had to make the least exertion in order to extend to the port the effects of the political change or revolution. That was a natural consequence of our general peaceful movement for the emancipation—a movement which met with no resistance on the part of the Spanish officers. There never existed at

San Juan any curacy or ecclesiastical administration; the population has never been so great as it has become after the occupation of the place by the Mosquito authorities.

If England could be prevailed upon to transmit the protectorate of the Mosquito Indians to the joint management of the five Central American republics, under such conditions as she might think proper to stipulate for the benefit of the Indians, I conceive that this would be the most satisfactory solution of the present difficulties.

It is an undeniable fact, if we consult the international treaties between England and Spain, and Spanish historians, that the English government has for centuries back exercised a certain kind of interference in the affairs of the Mosquito coast. Although the population of that territory is very small, not exceeding, perhaps, upwards of five or six thousand souls, including pure Indians and people of African descent, they are entitled to consideration, and have the right of living in a separate community; but I presume that if Great Britain saw the possibility of securing the welfare of the Mosquito people by organizing an efficient union in Central America, she would have no objection to transfer the protectorate to the Central American republics.

The realization of this scheme would indeed require that the United States and Great Britain should interpose efficaciously their combined mediation, in order to put a stop to all the existing difficulties amongst the Central American governments. It would suffice, in my opinion, that the high mediating powers should manifest their philanthropic views on the subject.

F. MOLINA.

WASHINGTON, June 21, 1851.

[*The above letter and inclosure appear as Document 16, Inclosure 1, in Special Message of President, 14th February, 1856, pp. 49-53.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

14th August, 1851.

(28.—Charter granted by the State of Nicaragua to the Accessory Transit Company.)

The supreme government of the Republic of Nicaragua, fully authorized by legislative decree of the 13th instant, have agreed, by means of their commissioners, Don Fruto Chamorro and Don Mateo Mayorga, with the sole object of facilitating the construction of the maritime canal, and in accordance with the desires expressed by the company of the said canal, represented by Joseph L. White, Esq., to

divide and separate from the contract of the 22d of September, 1849, relating to the construction of the said canal through the Isthmus of Nicaragua, the part therein relating to the navigation by steam of the waters of Nicaragua, and to that effect they have agreed to the following convention :

ARTICLE I.

The Republic of Nicaragua authorizes the American, Atlantic, and Pacific Ship-Canal Company to divide and separate from the powers, privileges, and rights granted by the treaty, signed by said government on the 22d September, 1849, and amended the 11th of April, 1850, all the powers, privileges, rights, and duties designated in the Articles 6, 14, 20, 21, 22, 23, 30, 32, 33, 34, and all other articles relating to the navigation of the waters of Nicaragua, not essential to the construction or use of the said ship canal.

ARTICLE II.

Said company is equally authorized to form another company, distinct and separate, comprised of the same members as the former. This new company shall enjoy the powers and be subject to the duties inserted in the articles aforesaid, provided they are not in contradiction to the rights granted, and to the duties imposed upon the Ship-Canal Company.

ARTICLE III.

The company newly created shall proceed to execute and accomplish the objects of its incorporation, as set forth in the said articles above alluded to, and shall have a right to, and shall have the protection of the Government of Nicaragua, within the same limits and to the same extent which have been stipulated in the primary charter of the 22d September, 1849, and its amendments of the 11th of April, 1850, relating to the construction of a ship-canal. All the acts and things which may constitute an infraction of the rights of the Ship-Canal Company, shall equally be considered an infraction of the rights of the company newly created in all that refers to the objects of its institutions.

ARTICLE IV.

The new company, when organized, shall be designated by the name of "The Accessory Transit Company." They shall be a body

corporate and politic, with perpetual succession during the time of their legal existence, and they shall have full powers to use their rights and privileges and accomplish fully the duties designated in the present convention and in the aforesaid articles in such manner as may seem to them most convenient and proper, provided that it be not in contradiction to the privileges and duties inserted in the primary charter of the 22d of September, 1849, and amendments thereto of the 11th of April, 1850.

ARTICLE V.

Said company, forming a body corporate and politic, may elect and remove their officers and agents according as they may deem it for their interest; they shall have the faculty of passing and adopting such laws and regulations as they may consider conducive to the better administration of their affairs, in view of securing the enjoyment of their privileges, and for the entire fulfillment of their obligations.

They may fix the amount and value of stock to be issued, and increase the same if necessary; provide the mode of transferring the same, and do all acts and things which are proper and necessary to carry out strictly the purposes of their institution, and according to the above-mentioned articles.

ARTICLE VI.

The company, forming a body corporate and politic, shall elect a board of directors and a president, and shall fix the number of the members thereof, the majority of whom shall determine and adopt all resolutions necessary to carry out the purposes expressed in the preceding articles, and such others as refer to the right of transit and are not inconsistent with the right of constructing and using the canal. The company may adopt a common seal, and change it if necessary. They may sue and be sued before the tribunals of the state as if they were a natural person.

ARTICLE VII.

All the property, choses in action, things, rights, credits, and effects of the new company shall be free from all charges and duties whatsoever during the existence of the grant, within the limits expressed in the primary charter of the 22d September, 1849, and amendments thereto of the 11th of April, 1850, conceded for the construction of a ship-canal, and for other purposes.

ARTICLE VIII.

This convention, and all the rights and privileges secured by it to the company and conferred by it, shall cease whenever the primary charter of the 22d of September, 1849, shall expire by its own limitation, or shall be otherwise forfeited or annulled.

ARTICLE IX.

It is understood and agreed by and between the contracting parties that no expression used in this convention can be or shall be construed as relieving either party from the performance of all the obligations imposed upon them respectively by the charter of the 22d of September, 1849, and amendments thereto of the 11th of April, 1850.

Done and signed in duplicate in the city of Granada, of Nicaragua, the fourteenth day of August, one thousand eight hundred and fifty-one.

[SEAL.]

FRUTO CHAMORRO,
MATEO MAYORGA,
J. L. WHITE,

Counsel to and Representative of the American
and Atlantic and Pacific Ship-Canal Company.

[*The above charter appears as Document 28, in Special Message of President, 29th July, 1882, pp. 90-91.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

30th October, 1851.

(Mr. Marcoleta to Mr. Webster.)

[Confidential.]

NEW YORK, October 30, 1851.

The ministers of Nicaragua and Costa Rica, being convinced that the actual state of the question pending between their respective governments is a source of immense evil and injury to their mutual interests, and to the perfect development of the political and commercial relations of both, and being desirous, therefore, to put an end to these evils, and to facilitate, on their own part, a complete and final settlement of the business pending with the British government, have agreed to meet and to devise the most suitable means for realizing the patriotic object which they have proposed to themselves.

With this purpose in view, Signior Molina, owing to the relation and compromises which bind Costa Rica to the government of her Britannic Majesty, has written to the English chargé d'affaires, at Washington on the subject; and the minister of Nicaragua, trusting in the good wishes which actuate the government of the American Union has the honor of addressing himself to the Hon. Daniel Webster, Secretary of State, to whom he submits the matter, entreating him, at the same time, that he will be pleased to interpose his beneficial influence, and to aid in bringing about the consummation of an object which is destined to be so fruitful of advantageous results to all.

The minister of Nicaragua is of opinion that if Costa Rica will abandon her pretensions to the territory situated on the right bank of the river San Juan, Nicaragua would, on her part, relinquish the district called *de Nicoya or Guanacaste*, and the two governments might make mutual concessions to each other, in regard to the free navigation of their own waters in the interior; agreeing, moreover, to conclude, subsequently to these arrangements, a treaty of friendship and commerce, which should guaranty the respective rights and interests of the parties in perpetuity.

The minister of Nicaragua has, therefore, the honor of submitting this matter to the enlightened consideration of the Hon. Daniel Webster, hoping that he will be pleased to favor these negotiations, in order that they may be brought to a speedy issue; and he begs to inform the Secretary of State, at the same time, that the ministers of Costa Rica and Nicaragua are ready to repair forthwith to Washington, if the Hon. Daniel Webster should deem their presence there necessary to carry out the end proposed.

In begging the Secretary of State to have the kindness to return a speedy reply to this communication, the undersigned avails himself of this occasion to tender him the expressions and utterances of his distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State.

[*The above letter appears as Document 17, in Special Message of President, 14th February, 1856, p. 54.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25,
In Vol. 10.

11th November, 1851.

(Mr. Webster to Mr. Marcoleta.)

DEPARTMENT OF STATE,

WASHINGTON, November 11, 1851.

The Secretary of State of the United States has received the note of Mr. Marcoleta of the 30th ultimo, marked "Confidential." He can appreciate and sympathize with the anxiety of that gentleman and that of Mr. Molina for the adjustment of the differences between Nicaragua and Costa Rica. This government strongly desires that they should be accommodated upon terms just to both parties, and upon a basis likely to be enduring. Without adverting to the nature or extent of the obstacles which have hitherto prevented that accommodation, it would seem to the undersigned, that the condition of public affairs in Central America, and especially in Nicaragua has, within a few months, become, and remains such, so far as this department is informed, that it is extremely doubtful whether any good or lasting results could at present be expected from the negotiations proposed by Mr. Marcoleta. It is probable that some of the dispatches of the chargé d'affaires of the United States in Nicaragua to this department have miscarried. It is certain, however, that at the latest dates from him he had not been received by the authorities at Leon in his official character. One cause for this may have been that a treaty is understood to have been concluded between Nicaragua, Honduras and San Salvador, providing for a confederacy between those States, with the title of "National Representation of Central America." But neither Mr. Marcoleta nor any other person has presented credentials to this government as the agent of that confederacy, and this department is not aware that the confederacy is in actual operation. If, however, such should be the fact, it will at once occur to Mr. Marcoleta that any step which he might take, as the diplomatic representative of Nicaragua only, would neither be binding upon her nor respectful to her confederates, so long as she acknowledged the validity of the compact which unites them.

[INCLOSURE NO. 1.]

NEW YORK, November 20, 1851.

SIR: With reference to the statement you made to me, a few days ago, saying that the association to which you belong was preparing to occupy certain portions of land situated on the southern bank of the river San Juan, in virtue of the contracts that your company has concluded with the government of the State of Nicaragua, I now think it my duty to address you this present for the purpose of informing you by writing, as I have already done in a verbal manner at our last interview, "that such an occupation involves a direct violation of the right appertaining to the republic of Costa Rica, who is the only legitimate owner of all the territories lying on the southern side of the San Juan river, along its whole course, and that in consequence of this just claim, the republic of Costa Rica has protested before the world, and again protests through my instrumentality, against the validity of the grants that the State of Nicaragua has unduly assumed the power to make to the Atlantic-Pacific Ship Canal Company, and that she will not allow establishments of any kind to be formed on the above mentioned bank, unless her own consent be previously obtained.

The company is aware that the question respecting the sovereignty of the aforesaid Territory between the republic of Costa Rica and the State of Nicaragua has been the subject of negotiations, opened under the mediation of the governments of the United States and Great Britain; and the company is also aware that those negotiations are still pending. In such circumstances, it seems necessary that the company should refrain from every proceeding which might change the present condition of the interests at issue between the parties maintaining contradictory claims to the same.

The circumspection that has presided over all the acts of the republic of Costa Rica in this affair, the regards she has had for the State of Nicaragua, and the friendly dispositions she entertains respecting the Atlantic-Pacific Ship Canal Company, are, in my impression, circumstances which entitle her to expect from others all due considerations, and that her rights shall not be tramped upon in a violent way.

If, on one hand, the government of Costa Rica, listening to reasons of an elevated order, thought fit to suspend the course of the contracts that had been concluded in its name, and were afterwards duly ratified, both for the purpose of cutting a ship canal and for the establishment *ad interim* of a transit route by the best possible means, contracts, which it would be easy, even at this late hour, to carry out, either with European or American speculators, on the other hand it is not to be presumed that the republic, in any plan of settlement whatever, may be disposed to recognize the grants of land made by Nicaragua; although she could perhaps be willing to give to the people of that State other proofs of fraternity and regard.

This declaration will not preclude, that on the application of the company, and the government of Costa Rica, finding it expedient, some lots of land of small extent may be granted to the company on the bank of the river for the building of depots, wharves and stations, according to the agreement which might be entered into, to that effect.

You will, therefore, perceive that the present protest has not been dictated by a spirit of hostility to the company, it being only a measure of self defence and self preservation, which duty ordains to me, and to which I expect due attention will be paid, so as to preclude the necessity of other steps.

It will not be superfluous to inform you that, under this same date, I send copies of this letter to the Secretary of State of the United States, and to the representative, in this country of Great Britain, and of the State of Nicaragua.

I take this opportunity to offer to you the assurances of my high consideration, remaining, sir, your obedient humble servant,

F. MOLINA.

True copy:

F. MOLINA.

[The above letter and inclosure appear as Document 20, Inclosure in Special Message of President, 14th February, 1856, pp. 56-58.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

25th November, 1851.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, November 25, 1851.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Molina, envoy extraordinary and minister plenipotentiary of the republic of Costa Rica, of the 20th instant, accompanied by a copy of a communication of the same date addressed by Mr. Molina to Mr. J. L. White, the agent of the Atlantic-Pacific Ship Canal Company, protesting against the contemplated occupation by that company of certain lands claimed by Costa Rica.

The undersigned avails himself of this occasion to offer to Mr. Molina a renewed assurance of his very high consideration.

DANIEL WEBSTER.

Señor DON FELIPE MOLINA, &c., &c., &c.

[The above letter appears as Document 21, in Special Message of President, 14th February, 1856, p. 58.]

32d Congress, 1st Session.
House Ex. Doc. No. 2,
In Vol. 2.

2d December, 1851.

(Annual Message of the President of the United States.)

[*Extract.*]

Fellow-Citizens of the Senate and of the House of Representatives :

* * * * *

It is understood that a considerable part of the railroad across the Isthmus of Panama has been completed, and that the mail and passengers will in future be carried thereon.

Whichever of the several routes between the two oceans may ultimately prove most eligible for travelers, to and from the different States on the Atlantic and Gulf of Mexico and our coast on the Pacific, there is little reason to doubt that all of them will be useful to the public and will liberally reward that individual enterprise by which alone they have been or are expected to be carried into effect.

WASHINGTON, December 2, 1851.

MILLARD FILLMORE.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

5th December, 1851.

(Mr. Marcoleta to Mr. Webster.)

[*Translation.*]

WASHINGTON, December 5, 1851.

The undersigned envoy extraordinary and minister plenipotentiary of Nicaragua, has seen with pain and astonishment the protest which the legation of Costa Rica has addressed the government of the American Union, to the chargé d'affaires of her Britannic Majesty in Washington, and to the Maritime Atlantic-Pacific Canal Company, in consequence of having learned from the agent of said company that the latter was making preparations for occupying and colonizing the land which had been granted to it by the government of Nicaragua, on the right borders of the river San Juan, in virtue of the 27th article of the contract concluded on the 27th of August, 1849.

The undersigned, without entering fully into the merits of this question, at present, and without reproducing in this place the various arguments and reasons which have already been advanced in support and justification of the sovereignty of Nicaragua over the right bank of the river *San Juan*, and the right which consequently belongs to said Nicaragua to dispose of those lands, finds himself under the necessity of protesting in the face of the world, as he does, in fact, hereby protest, against the pretensions of Costa Rica, which are not only fraught with detriment and injury to the rights and sovereignty of Nicaragua, but which are even at variance with established precedents.

The undersigned declares moreover, in the name of his government, that the latter will not allow nor tolerate the least damage or curtailment of its well established rights, and that it is and always will be ready to maintain them at all hazards, costs and perils.

The undersigned avails himself of this opportunity to renew to the Secretary of State the assurance of his most distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State.

[*The above letter appears as Document 22, in Special Message of President, 14th February, 1856, pp. 58-59.*]

32d Congress, 1st Session.
Senate Ex. Doc. No. 7.
In Vol. 4.

17th December, 1851.

(Despatch to Senate.)

Despatch by Nathaniel Niles on subject of a ship canal to unite Atlantic and Pacific Oceans, Dec. 17, 1851.

(Omitted.)

34th Congress, 1st Session.
Senate Ex. Doc. No. 194.
12/10/52

27th February, 1852.

Mr. Lawrence to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES.

No. 164. LONDON, Feby. 27, 1852 (Received March 1st).

Sir: * * * The report of Colonel Childs is looked for with deep interest, and there does not appear any difficulty in associating persons of both countries able to accomplish so great a work, whenever a satisfactory survey shall have been completed.

I have, &c.,

ABBOTT LAWRENCE.

[The above letter appears as Document. 29 in Special Message of President, 29th July, 1882, p. 90.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

5th March, 1852.

[Translation.]

(Mr. Marcoleta to Mr. Webster.)

WASHINGTON, March 5, 1852.

The undersigned has the honor of enclosing to the Hon. Daniel Webster, Secretary of State of the American Union, copy of the reply of Lord Granville, her Britannic Majesty's secretary for foreign affairs, to the note which was addressed to him by this legation, on the 17th of last January, asking for the intervention of her Majesty's government, with a view of putting a stop to the sale of lands, which was lately carried on in the port of San Juan, and within the territory comprised between the latter port and what are called the rapids of Machuca.

It seeming likely that the negotiations which were suspended in July last may be resumed in Washington before long, it will not be deemed inopportune that the undersigned should submit some remarks to the consideration of the honorable Secretary of State of the American Union, which are sufficiently connected with the note of the 17th of January, which the undersigned had the honor of communicating to the cabinet of Washington.

Before all, it does not appear to the undersigned that the British government has understood the real meaning of that communication, in which, abstaining entirely from every kind of territorial claim, the undersigned confined himself to simply pointing out to the British government the irregularity of the proceedings on the part of the English, *not Mosquito*, authorities of the port of San Juan, who had commenced emancipating and selling certain lands, which the pending negotiations would appear to show, "in a political sense," that they do not belong either definitively or legally to any of the parties interested, inasmuch as this point of dominion, sovereignty, and jurisdiction, has been left as depending upon the results of the aforesaid negotiations.

The undersigned, in making known to the cabinet of St. James the wishes of the government of Nicaragua to maintain the most friendly relations with the British government, appealed to the English government to interfere in preventing certain measures and acts, which were in direct opposition to established usages on similar occasions; acts, which would, without the least doubt, tend to complicate more and more those negotiations which it was now desired to simplify, by throwing obstacles in the way of a just solution of the same.

In his note of the 17th of January last, the undersigned abstained from claiming any jurisdiction or right whatever, such claims having already been put forward in the various communications which had been addressed to the British government to that effect on different occasions.

If the sales in question had even been confined to the lands contiguous to the port of San Juan, the new declaration contained in Lord Granville's note of the 13th of last February might have some show of foundation. Far from this, said sales have been carried on, over a considerable extent of territory, about which there had existed no controversy nor reclamation of any kind, on the part of the British government in favor of the pretended king of Mosquitos; so much so, that a simple note of Mr. Chatfield, chargé d'affaires and consul general of her Britannic Majesty in Central America, alienated from the States of Nicaragua and Honduras a great portion of their respective territories. This arbitrary act, of which the undersigned had the honor of informing, in due season, the honorable Secretary of State of the American Union, was consummated without the intervention of the respective governments of Nicaragua and Honduras, without

the latter being summoned or consulted, or allowed time to prove their legitimate rights, and especially against the text and meaning of the treaty concluded between the United States and Great Britain, on the 19th of April, 1850 (article 1st), which was ratified shortly after by the two high contracting parties.

It is impossible, therefore, to deny to Nicaragua the only efficacious resource which belongs to the weak when they are contending with the powerful, without paving the way for consequences which would be pernicious in themselves and offensive to the law of nations; it were to say that force alone regulates the political, mercantile and territorial transactions of nations between themselves, when, on the contrary, reason requires that all should be governed by a due application of the principles of equal justice.

The undersigned begs the honorable Daniel Webster to be fully convinced that in submitting the foregoing explanations he has only followed literally the instructions of his government, which is far from being actuated by any feeling of hostility towards those nations with which it finds itself happily on terms of reciprocal friendship and good will, and that so far from wishing to weaken those relations, it desires on the contrary to strengthen them more and more for the mutual advantage of all, without surrendering, however, those sacred rights and obligations in which it finds itself constituted.

The undersigned avails himself of this opportunity to renew to the honorable Secretary of State the assurance of his distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State, &c., &c.

[INCLOSURE.]

FOREIGN OFFICE.

FEBRUARY 13, 1852.

The undersigned, her majesty's principal secretary of state for foreign affairs, has had the honor to receive the note which Monsieur de Marcoleta, envoy extraordinary and minister plenipotentiary from the republic of Nicaragua, addressed to him on the 17th ultimo from Washington, on the subject of certain facts which are alleged by Monsieur de Marcoleta to have taken place at the port of Greytown, and which he represents as of a nature to complicate the negotiations respecting that port and district which are pending

between Great Britain, the United States and the republics of Nicaragua and Costa Rica.

The undersigned has the honor to inform Monsieur de Marcoleta that Mr. Crampton, her Majesty's envoy extraordinary and minister plenipotentiary at Washington, has been instructed by her Majesty's government to conduct the negotiations at Washington respecting Greytown and the Mosquito territory, which have been so long interrupted by the want of instructions from the government of Nicaragua to their representative at Washington, and the undersigned requests therefore that Monsieur de Marcoleta will put himself in communication with Mr. Crampton on all points connected with those negotiations.

The undersigned has, however, to observe to Monsieur Marcoleta that her Majesty's government cannot admit the claim which he has put forward to interfere with the sale of any part of a territory over which her Majesty's government have always denied and still deny that Nicaragua has any jurisdiction.

In thus recording their continued rejection of the rights which the Nicaraguan government asserts over the Mosquito territory, the undersigned wishes at the same time to state that her Majesty's government earnestly desire to maintain the most friendly relations with the government of Nicaragua, and they trust that means will be found in the course of negotiations which, it is to be hoped, will speedily be re-opened at Washington, for settling in a manner equally fair and honorable to both parties the points of difference which still unhappily subsist between Great Britain and Nicaragua.

The undersigned requests Monsieur de Marcoleta to accept the assurance of his highest consideration.

GRANVILLE.

Monsieur DE MARCOLETA, &c., &c., &c.

[*The above letter and inclosure appear as Document 23, Inclosure 1, in Special Message of President, 14th February, 1856, pp. 59-62.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

26th March, 1852.

(Mr. Lawrence to Mr. Webster.)

[*Extract.*]

[168.]

LEGATION OF THE UNITED STATES,
LONDON, March 26, 1852 (received April 9).

SIR: Since my dispatch, No. 164, relative to the proposed survey for a route for a canal between the Atlantic and Pacific Oceans, I

have heard nothing further from Messrs. Vanderbilt & White nor have I received the report of Colonel Childs. * * *

As there can probably be but one canal, as that one should be constructed as well for the wants of the future as those of the present, and as it will doubtless absorb in its construction as much of the private capital of both countries as mercantile persons will desire to invest in it, I am anxious that a preliminary survey like the present should be made in such a way as to insure its completion and excite jealousy in neither country.

It is equally the interest of the United States and of Great Britain to connect the two oceans at the earliest practicable period by the best route, without reference to private interests, even though at an augmented cost of a few millions of dollars. The canal will be remunerative at any rate. But it is understood that neither government will be interested in its construction beyond the guarantee of the treaty of 1850. Yet each may assist by its advice and encouragement. The present British cabinet, following the example of the last, is, I think, inclined to give to private individuals embarking in this scheme the aid of its countenance. I respectfully suggest that the same course may be pursued at Washington with great benefit to the country by entering into communication with capitalists and others who might be disposed to aid in completing this most important work.

I have, &c.,

ABBOTT LAWRENCE.

[*The above letter appears as Document 30, in Special Message of President, 29th July, 1882, pp. 90-91.*]

34th Congress, 1st Session.
Senate, Ex. Doc. No. 25.
In Vol. 10.

6th April, 1852.

(Mr. Molina to Mr. Webster.)

[*Confidential.*]

WASHINGTON, April 6, 1852.

DEAR SIR: With reference to what you had the kindness to mention to me yesterday, as to the desire of the Ship-Canal Company of having secured to it by the treaty in contemplation two sections of land on the Costa Rica side of the River San Juan,

I beg leave to observe, that having communicated to my government, from the month of July last, the terms then recommended by your own good self and Sir Henry Bulwer for the settlement of the pending questions between Nicaragua and Costa Rica, and no proposition of the kind having been, at or since that time, entertained, I hardly think myself at liberty to take any resolution on the subject without receiving new instructions.

In these circumstances, I would feel extremely grateful to you if you were to allow me some time to refer to my government. I hope you will do me the justice to believe that it is a matter of deep regret for me to meet with this unexpected difficulty to the realization of an adjustment which has been the object of my life for the last four years, and in the negotiation of which I flatter myself I have given many proofs of the self-sacrificing spirit of the country I represent. And you may easily conceive that it is with great reluctance and pain that I shall, if I must do so, renounce the honor of being a party to the negotiation.

I beg to renew the assurance of my consideration of deep regard with which I have the honor to remain, dear sir, your humble servant,

F. MOLINA.

Hon. DANIEL WEBSTER,
Secretary of State of the United States.

[*The above letter appears as Document 24, in Special Message of President, 14th February, 1856, p. 62.*]

34th Congress, 1st Session.
Senate, Ex. Doc. No. 25.
In Vol. 10.

8th April, 1852.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, April 8, 1852.

DEAR SIR: I have received your note of the 6th instant, marked confidential.

The President will be exceedingly unwilling to be obliged to conclude the pending arrangement without the co-operation and consent of Costa Rica. But time presses, and it is necessary to bring this business to an end. Nicaragua granted the sections of land to the canal company, to be located on either side of the San Juan. If she

to surrender all the territory on the south side of that
Costa Rica, it seems quite reasonable that an arrangement
be made between the two governments, such as shall meet
convenience and fulfill the just expectations of the canal com-
pany.

It is most earnestly to be desired, that upon further considera-
tion you should devise a plan by which we can get over the present
difficulty without the delay which would necessarily be incurred
by waiting for further instructions. I commend this subject with
renewed earnestness to your attention.

I offer you a renewed assurance of my very high consideration.

DANIEL WEBSTER.

Señor Don FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 25, in Special Message of
President, 14th February, 1856, pp. 62-63.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

9th April, 1852:

(Mr. Molina to Mr. Webster.)

WASHINGTON, April 9, 1852.

SIR: I had the honor to receive your communication of yesterday,
and in reply to it I beg to say, that as an earnest of my desire to co-
operate with you in the accomplishment of the benevolent and elevated
design of your government, I will assume the responsibility of agree-
ing to the stipulation that two, out of the eight sections of land
granted by Nicaragua to the canal company, shall be situated on the
Costa Rican side of the river San Juan, provided that an indemnity
be paid to Costa Rica; that the company shall not select those two
sections within ten miles from the entrance of the River Colorado
into the sea, or the junction of the Sarapiquí river and the San
Juan river, and that Costa Rica shall retain her sovereignty in
regard to the two above mentioned sections of land thus selected.

The indemnity seems to me necessary in order to make the
contemplated convention acceptable to the Costa Rican people,
who have made up their minds, long ago, to abandon certain
rights to the Nicaraguans on those very important and essential
points contemplated in the treaty, but are not prepared to yield

this comparatively small and insignificant matter. Were I to give my unconditional assent to it, they would be apt to regard the treaty no longer as an act of their own free will and wise deliberate moderation, but as a constraint put upon them.

I beg, therefore, to propose the sum of \$100,000 as an indemnity, to be paid by Nicaragua to Costa Rica out of the revenues that the former is to receive from the company. The payments to be effected in four, five, or more yearly instalments, as you may think proper. This sum will not appear exorbitant when it is taken into account that Nicaragua is likely to receive from the company about \$100,000 every year, before the canal is completed, and that after the completion of the said work that amount will, perhaps, be increased to millions. One half of those profits belong, of right, to Costa Rica, but will be entirely surrendered by the treaty. The proposed indemnity would be a consideration for both the two sections in question, and for the cession of the delta comprised between the northern branch and the Colorado branch of the River San Juan, a cession not spoken of in the preliminaries of July last, but which I did not hesitate to assent to with a view to remove all further difficulties.

Having thus candidly submitted my views on this subject, and hoping that you will be pleased to take them, at your earliest convenience, into consideration, I have the honor to remain, with the highest regard and deep respect, sir, your obedient, humble servant,

F. MOLINA.

Hon. DANIEL WEBSTER,

Secretary of State of the United States.

[*The above letter appears as Document 26, in Special Message of President, 14th February, 1856, pp. 63-64.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

15th April, 1852.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, April 15, 1852.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which you agree to stipulate, on behalf of your government, to allow the Atlantic-Pacific Ship-Canal Company to locate two of the sections of land granted to them by the Nicara-

guan government on the Costa Rican side of the San Juan river, in consideration of one hundred thousand dollars to be paid by Nicaragua to Costa Rica out of the revenues to be received by the former from that company. Your offer is also made subject to other conditions.

It is to be regretted that the expectations of your government should be so high in regard to its differences with the Nicaraguan government. I had indulged the hope that the proposition contained in my note of the 8th instant would, under the circumstances, have been considered by you so moderate and reasonable that you would not, by rejecting it, lose the opportunity which it afforded Costa Rica to avail herself of the good offices of the United States and Great Britain towards accommodating the disputes between her and Nicaragua. Inasmuch, however, as you have otherwise decided, Mr. Crampton and myself will proceed to arrange the points at issue between our two governments in regard to the Mosquito shore, and to transmit directly to the Nicaraguan government, whose diplomatic agent here it is understood still remains without instructions, information of these arrangements, with a distinct statement of our joint opinions of the interests and duty of that government. As you are the recognized minister of Costa Rica to this government, it would be improper for us to address ourselves directly to that of Costa Rica, as such a proceeding would be a departure from diplomatic usage. I have to say, however, that a copy of the paper which we propose to communicate to the Nicaraguan government will be placed in your hands.

I avail myself of this occasion, sir, to offer you a renewed assurance of my very distinguished consideration.

DANIEL WEBSTER.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 27, in Special Message of President, 14th July, 1856, p. 64.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

19th April, 1852.

(Mr. Molina to Mr. Webster.)

WASHINGTON, April 19, 1852.

SIR: I had the honor of receiving your letter of the 15th instant, in which you have the goodness to express a regret that the expect-

tations of my government, as set down in my note of the 9th, should be so high; and that, consequently, you will proceed to arrange with Mr. Crampton the points at issue between the United States and Great Britain in regard to the Mosquito shore, and to forward to the Nicaraguan government a distinct statement of your joint opinions respecting the interests and duty of that government. And you further mention the intention of transmitting to me a copy of the paper that is to be addressed to the Nicaraguan government, for the information of that of Costa Rica.

In reply, I think it my duty to assure you that my government will be prepared to receive, with due respect and grateful acknowledgement, any suggestions proceeding from such exalted sources. But, at the same time, I cannot refrain from lamenting my misfortune in having failed to impress this government with my own convictions in regard to the extent of the rights of Costa Rica, as no opportunity has been offered for the full and mature discussion of those rights, in which case, I am led to think, that the moderation and self-denial of the party I represent would have been better appreciated.

As the matter now stands, I would only venture to suggest that, instead of stipulating a fixed amount of money, a provision might be inserted in the treaty or paper to be drawn to the effect that the State of Nicaragua should give to Costa Rica an indemnity for the two sections of land wanted by the company, and for the territory comprised between the Colorado branch and the northernmost branch of the river San Juan. This indemnity to be regulated by mutual agreement of the parties concerned, or through the arbitration of one of the other three Central American governments that should be chosen by lot.

This solution of the only difficulty remaining offers the advantage that it would not interfere with the immediate execution of the other arrangements contained in the treaty.

Requesting again your earnest attention on the subject, I have the honor to remain, with the highest consideration and deep respect, sir, your most obedient humble servant,

F. MOLINA.

Hon. DANIEL WEBSTER,
Secretary of State of the United States.

[The above letter appears as Document 28, in Special Message of President, 14th February 1856, p. 65.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

21st April, 1852.

[*Translation.*]

(Mr. Marcolota to Mr. Webster.)

WASHINGTON, April 21, 1852.

MR. SECRETARY OF STATE: All hope, for the present, being lost of reconciling the opinions and harmonizing the interests of the three States of Central America, for the establishment of the proposed confederation of said States, Nicaragua, one of them, could not view with indifference the neglect and the too long protracted suffering which her foreign relations experienced at the very time when it was necessary to act with the greatest activity, and to give an energetic impulse to the pending question.

Thus it is that, without renouncing any ulterior project of uniting the States under one common form of government, Nicaragua, inspired by an instinctive feeling of self-preservation, and despairing of arriving at any definite result, has thought that she ought to separate and resume, with her independence and sovereignty, the direction and management of her foreign relations and affairs; not without a lively and keen regret at seeing her exertions rendered fruitless for the attainment of an object so natural and patriotic.

In consequence of a legislative decree Nicaragua proceeded to receive, with the requisite formality, the worthy representatives of the American Union and of her Catholic Majesty, as well as the consular agent of the United States at the port of San Juan del Sur.

The undersigned, whose mission remained virtually and practically suspended while he did not possess from the proper authority the powers necessary to continue his mission, has consequently resumed his former official position, giving, by this step, the necessary weight and authority to the powers which were formerly conferred upon him by the government of Nicaragua.

Thus the undersigned does not perceive, at present, the least difficulty in his taking part in the conferences or preliminary arrangements respecting the bases which have to be established in relation to the port of San Juan and of the Mosquito coast, and he hopes to be invited to them, *claiming as he does hereby claim*, the right, inasmuch as the negotiations concern directly and immediately the political, mercantile, and territorial interests of his government.

The undersigned does not lose sight of the difficulties which complicate these negotiations, nor of the opposition which exists among the different interests that are brought into question in their discussion, nor does he fail to acknowledge the advantage and propriety of determining questions which hold, so to speak, in suspense the settlement of important interests, with very great detriment to all parties.

In the opinion of the undersigned the principal difficulty, and, at the same time, the easiest to remove, is the question of boundary between Nicaragua and Costa Rica. A question purely local, secondary, and foreign; one which ought to be treated only between the two governments interested in it; thus removing one of the principal, perhaps the most serious, obstacle which opposes the course, march, and progress of the chief question, which could be of very easy solution without this serious impediment.

But, supposing that said complication exists, and that it exists through the unnecessary choice of some of the parties interested, without reason or justifiable cause; and supposing, also, that every day renders it more necessary to arrive at the desired termination, the undersigned, consulting on one hand the dignity of the respective governments, and considering the existing state of things, and knowing also the sentiments which animate the government of Nicaragua in favor of her sister State, for whose prosperity it entertains the most fervent wishes, for whose happiness and progress it feels and takes the most lively and profound interest, is of opinion that, without causing more delay, a final understanding should at once be sought; and, with this object, he has the honor to propose and submit to the enlightened decision of the honorable Secretary of State the enclosed *projet* of an arrangement which, on being duly considered, steps may be taken immediately with a view to lay down the clauses and to give them a public, legal, and authentic consideration, which shall define and irrevocably fix the destiny of all the States in general, and of each one in particular.

The undersigned is fully convinced that the honorable Secretary of State will find in said *projet* the most convincing proof of the desire which animates the government of Nicaragua to consult the general good; he believes that said *projet* offers advantages and imposes equal sacrifices upon all parties, and he is persuaded that the means most likely to encompass the end in view is a mutual agreement to consent to mutual sacrifices. Nicaragua comes the first to submit the proof of this self-abnegation, and if the parties interested

pursue the same course there will be no difficulty in future in settling the various questions on whose solution depend the repose of the country and the development of common interests.

In the original plan there was imposed, almost by violence, upon Nicaragua, through the restoration of the port of San Juan, a series of sacrifices most detrimental to its dignity and interests; she was required to give an indemnity to the pretended Mosquito king, whom Nicaragua has never recognized *nor is disposed* ever to recognize; she was required to establish boundaries with the notorious king of Mosquito, in a territory which she has always claimed as that which formed an integral part of her own dominion, to which she has abundant rights, which rights Spain, a competent judge in this matter, has ultimately confirmed by a public treaty.

It was imposed upon her that she should yield to Costa Rica the district of Nicoya or Guanacaste on the Pacific coast, and on the Atlantic coast the right bank of the river San Juan, with the free navigation for sailing vessels on the waters of the river and the contiguous lake—all this with the greatest disregard of the recognized rights, and with well known detriment to the dearest and most vital interests of the government of Nicaragua.

In the original negotiation and on the proposition of Sir Henry Bulwer, the minister of her Britannic Majesty, there was imposed and carried out a complete denial of the question of right, thus depriving Nicaragua of the only safeguard and defence of her own rights, when, contrary to this determination, they admitted then as they admit now the rights which are claimed by Costa Rica, in order to contribute to the spoliation which was attempted to be imposed on Nicaragua.

It is not then possible to admit now this contradiction, without incurring the reproach of partiality and of flagrant injustice.

If Costa Rica desires the common good, if she wishes to exhibit fraternal feelings towards Nicaragua, there remains not the least doubt that she will agree to the *projet* which is here proposed; on the contrary, she will prove evidently that it is not the desire of common prosperity which she cherishes in her heart, but a selfish feeling which the present generation and posterity will designate as that of ambition—accusing Costa Rica, with abundant reason, of being the favorer, the instigator and promoter of fatal intestine discords, and the only obstacle that lies in the way of the well being of two nations that have the same origin, like interests and similarity in their religion, language, habits and customs.

In respect to Great Britain, the government of Nicaragua entertains the firm conviction that that power is actuated by the most generous sentiments; sentiments and feelings worthy of her strength, her greatness and her power, and that she will not sully her glory and her national pride by the recollection of past resentments, nor by humiliating, degrading and ruining a weak State, whose only means of defence are no other than the conviction that she possesses in the rights that she believes belong to her, in the conscious rectitude of her motives, the natural desire of her own self-preservation and the duty which devolves upon her to defend and watch over her most precious and dearest interests.

In respect to the United States of North America, Nicaragua appeals in the last place to the fraternal feelings which unite both countries, to the homogeneousness of their political institutions, to the mutual sentiments which now reign in the hearts of their sons, respectively, founded on the one side, and more closely connected on the other, by the indissoluble bonds of a community of interests and relations.

Nicaragua, then, must trust and hope that so many and such close interests will not cease to have their influence on the minds of those now charged with the duty of directing the destinies of this great republic, and that they will contribute by their powerful support and influence to a reconciliation of the parties, by causing them to accept the means which Nicaragua offers as the expedient best adapted to terminate at once differences so serious, of such long standing, and so prejudicial to the interests of all.

Nicaragua comes forward to contribute, on her part, to the common stock of sacrifices and abnegation, and hopes confidently that her conduct will be imitated, chiefly by her sister State of Costa Rica.

Nicaragua trusts, likewise, in the magnanimity of sentiments and intentions of her Britannic Majesty, and in the sympathy and friendship of the American people.

On the basis contained in the enclosed *projet*, the undersigned can proceed to discuss and sign the proper stipulations, being almost able to assure the honorable Secretary of State that his government will not hesitate to sanction them, as he can in the same way assure him that in the new instructions which have been requested Nicaragua will not submit to the long catalogue of sacrifices which had before been required of her.

The undersigned embraces this occasion to renew to the honor-

able Secretary of State the assurances of his most distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State.

[INCLOSURE.]

(*Translation.*)

(Project and means proposed by the legation of Nicaragua for a final settlement of the questions relating to the port of San Juan, the Mosquito coast, and the question of limits between Nicaragua and Costa Rica.)

PORT OF SAN JUAN AND THE MOSQUITO COAST.

1. The port of San Juan del Norte shall be restored to Nicaragua, whose government accepts the limits lastly proposed by her Britannic Majesty's minister to the country and to the Mosquito coast, to wit: To the northward, from Cape *Gracias a Dios*, following the river Segovia, towards the interior, as far as the parallel eighty-four and a half longitude, and from thence descending in a direct line by west until faces the south, to the cape of Punta Gorda, which they will reach by an horizontal line.

2. Nicaragua shall pay such indemnity as may be stipulated for the improvements introduced in the port of San Juan, from the 1st of January, 1848.

The aforesaid indemnity shall not be required to be paid at once, but little by little and by degrees, according as the circumstances of the government of Nicaragua shall permit, which trusts in the sentiments of justice and moderation of the great powers interested in the matter, in order that said indemnity may be reduced to the lowest possible figure, in view of the peculiar position of Nicaragua, the deterioration of her revenues, and the internal convulsions which have unhappily occurred there, especially in latter times.

3. Great Britain and Nicaragua shall adjust a treaty of peace, friendship, and commerce, on the same terms as that discussed between the United States and Nicaragua, with the exception of some provisions, which shall determine to the judgment of the parties, the particular and local circumstances of the two powers.

4. The United States of America and Great Britain guaranty the integrity of the territory of Nicaragua, especially that portion of it which is to be occupied by the canal or railway, if the latter should be established, and they shall protect the works on these routes of communication; guarantying, also, the neutrality of these important works.

5. Said powers shall also stipulate the number of maritime miles to which the aforesaid neutrality is to extend, at the two extremities of the canal or railway.

Question of limits between Nicaragua and Costa Rica.

1. Nicaragua shall yield, in perpetuity, to Costa Rica the district of Nicoya or Guanacaste.
2. Costa Rica shall desist from her pretensions to the right bank of the river San Juan, which shall continue to form an integral part of the dominions of Nicaragua.
3. Nicaragua shall insure to Costa Rica the freedom and absolute immunity for the importation and exportation of her trade by the rivers San Juan and Sarapiquí.
4. Nicaragua shall cede to Costa Rica, if this government should request it, the land necessary for the construction of a waggon road, and for the erection of a custom-house and revenue stations.
5. Costa Rica shall make a formal renunciation of all sums or amounts which she may think herself entitled to claim from Nicaragua, whether said sum be the result of pecuniary advancements or whether it proceed from any kind or species of supplies furnished.

Nicaragua and Costa Rica shall conclude a treaty of peace, amity and commerce, in which there shall not only be stipulated the foregoing clauses, but even the free introduction, exportation and transit in the respective territories of the produce of their soil, and articles manufactured on the same; but articles manufactured in foreign countries, and the produce of foreign soil, shall be subject to the custom-house regulations of the two governments in regard to importation, exportation and transit.

J. DE MARCOLETA,
The Minister of Nicaragua.

[*The above letter and inclosure appear as Document 29, Inclosure I, in Special Message of President, 14th February, 1856, pp. 66-70.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

29th April, 1852.

[*Extract.*]

(Mr. Webster to Mr. Walsh.)

DEPARTMENT OF STATE,
WASHINGTON, April 29, 1852.

SIR: The disputes between the republics of Costa Rica and Nicaragua, and between the latter and the Mosquito Indians, in regard to the boundary between their respective territories, have threatened to be so serious an obstacle to the commencement

canal by the way of the San Juan river and to suggest that the governments of the United States and Great Britain have deemed themselves warranted in offering offices for the purpose of adjusting them. For this purpose Mr. Crampton, the British minister here, and myself have drawn up and signed the paper a copy of which is herewith receive. This paper consists of a preamble setting forth the motives for the settlement of the disputes, seven articles for that settlement, and a conclusion adverting to the alternative which Great Britain and the United States will deem themselves justified in adopting, should their recommendation to Costa Rica and Nicaragua not be substantially adopted by them. Until recently hopes were entertained that Mr. Molina, the minister of Costa Rica here, would have joined in the instrument. The accompanying copy of a correspondence between this department and him will, however, apprise you that as he has been unwilling to permit the canal company to locate certain sections of land granted them by Nicaragua on the right bank of the San Juan river, it has been deemed advisable not to yield to him on this point, and we have signed the paper without him. A motive for this on my part was an apprehension that he might ultimately object to some of the terms in which the boundary between Costa Rica and Nicaragua is described. As it is presumed that his scruples were in obedience to instructions from his government, it is deemed expedient that a person on the part of this government should proceed to San José, the capital of Costa Rica, for the purpose of inducing that government to accede to the recommendation embodied in the paper averted to. You have accordingly been selected for the occasion. A letter introducing you to the minister for foreign affairs of Costa Rica is herewith enclosed. On reaching San José, you will lose no time in presenting this and in making known the object of your visit. For this purpose, you will present to the minister the document executed by Mr. Crampton and myself, and will request that it may be taken into immediate consideration. In order that you may be prepared to meet any objections to its adoption by that government, it is proper that you should be apprized of the full extent of its claims in respect to Nicaragua. It is understood that Costa Rica asserts that her boundary begins at the mouth of the San Juan, at its confluence with the sea, and extends therein to its source in Lake Nicaragua, and thence to a point on that lake nearest the mouth of the river La Flor, on the Pacific;

and thence by a direct line to the mouth of that river. Nicaragua, on the other hand, contends that Costa Rica has no right to claim the region on the south bank of the San Juan or the district of Guanacaste. From the attention which I have been able to bestow upon the subject, I incline to the opinion that the claim of Costa Rica to the south bank of the San Juan is good as far as the mouth of the Sarapiquí river, but that her pretensions to the Guanacaste district will not bear a strict and impartial investigation. By the proposition we make to her, therefore, she would apparently lose, in the first place, the delta between the San Juan and the Colorado. This, however, would only be an apparent loss, when it is considered that the Colorado may be deemed a branch of the San Juan, and as it discharges a much larger volume of water than the branch which empties into the sea at Greytown, it may be said to be the main branch of the stream. When, also, it is considered that the delta referred to is uninhabitable and otherwise valueless, Costa Rica cannot justly be said to make any material sacrifice in adopting the Colorado as her boundary. It is not improbable that she has hitherto been influenced in her pretensions by a reluctance that Nicaragua should have exclusive control of the canal, and by an impression that, if the Costa Rican boundary were to extend to the south bank of the San Juan and were to embrace the Guanacaste district, she might have the canal within her jurisdiction, especially as the port of Salinas, on the Pacific, which has sometimes been spoken of as the best terminus for the work, would then be hers. The Atlantic and Pacific Ship Canal Company have, however, made a thorough survey of the region between Lake Nicaragua and the Pacific, and have ascertained that not only the most practicable, but the only practicable, course for the canal will be from a point on that lake, within the acknowledged territory of Nicaragua, to Brito on the Pacific, also in her territory. Inasmuch, therefore, as there cannot be two canals in that quarter, and as capitalists will prefer the cheapest and most eligible route, Costa Rica cannot, in any event, expect to have the canal within her territory. As it is probable, however, that the San Juan itself will, in a part of its course at least, be used as the canal, by means of locks and dams, it is indispensable that the canal company should have exclusive control over the waters of that river for the purpose of the canal. If, therefore, Costa Rica should acquire, by so good a title as the guaranty of the United States and Great Britain, the rich and extensive region of Guanacaste at so small apparent a sac-

rice it is difficult to imagine why her government could reasonably hesitate to adopt our recommendation.

But, it may be asked, why should Nicaragua have the exclusive right to navigation by steam on the San Juan and the lake? To this it may be answered, that steam navigation was first introduced there under the auspices of Nicaragua, in the belief that she had exclusive jurisdiction over the river and lake; that the company, to whom she has granted the privilege, accepted it under this impression, and have invested a large capital in carrying their grant into effect. If Costa Rica should make a similar grant to another company, it would probably result in material loss, if not ruin, to that holding under Nicaragua, and indeed to both, and would ultimately lead to ceaseless bickering and perhaps arrest all steamboat navigation in that quarter. The competition between the Nicaraguan route, to and from the Pacific, and those by the way of Panama and Tehuantepec, when the latter shall be open, will make it for the interest of the Nicaragua company so to reduce their rates for passage and freight that none of the usual objections to a monopoly can be urged against them.

If, however, the Costa Rican authorities should not acknowledge the reasonableness of the plan of accommodation proposed, and should persist in asserting all their pretensions against Nicaragua, you will say to them that this will not prevent the United States from entering into a convention with Great Britain to protect both the transit and the ship canal company. Should such a convention go into effect, it would, if necessary, be the right and duty of both parties to it to use other means than persuasion to induce Costa Rica to abstain from trenching on the privileges or interfering with the operations of either of those companies.

It is the President's wish, that if the proposition of which you are the bearer be acceptable to that government, their assent to it may be given in a formal manner by both the legislature and president of Costa Rica, so that no further reference to that country may be necessary. Mr. Molina might then be instructed and empowered to sign a quadripartite treaty, and might, at the same time, be furnished with a ratification of such a treaty, to be exchanged here for the ratifications of the other parties. It is highly desirable that that government should dispose of the subject, so that you may return hither in season to allow the treaty to be acted upon by the Senate of the United States at its present session.

You will proceed to San Juan de Nicaragua, and from thence up

the San Juan river to its confluence with the Sarapiquí, and from thence to San José by land. When you shall have concluded your business at San José, you may return by the way of Nicaragua, in order that you may bring with you any dispatches which Mr. Kerr, the chargé d'affaires of the United States to Nicaragua, may have occasion to send to the department.

I am, sir, very respectfully, your obedient servant,

DANIEL WEBSTER.

ROBERT M. WALSH, Esq., &c., &c., &c.

[INCLOSURE.]

(Basis of a Convention for the settlement of the differences between Nicaragua and Costa Rica proposed by the United States and Great Britain.)

WASHINGTON, April 30, 1852.

The undersigned, Daniel Webster, Secretary of State of the United States, and John F. Crampton, envoy extraordinary and minister plenipotentiary of her Britannic Majesty, having taken into consideration the state of the relations between the republics of Costa Rica and Nicaragua in respect to the boundaries between those republics, and between the republic of Nicaragua and the territory claimed by the Mosquito Indians, and being mutually desirous that all pending differences respecting those questions should be amicably, honorably and definitely adjusted, do, in behalf of their respective governments, earnestly recommend to the respective governments of the republics of Nicaragua and Costa Rica an accommodation and settlement of these differences upon the following basis.

ARTICLE I.

The Mosquito Indians may reserve to themselves, out of the territory heretofore claimed or occupied by them on the eastern coast of Central America, a district of country, and the jurisdiction over the same to be bounded as follows, namely: Beginning on the shore of the Caribbean sea at the mouth of the river Rama, which is (according to Bailey's map of Central America, published in London November, 1855) $11^{\circ} 34'$ north latitude and $83^{\circ} 46'$ west longitude; running thence due west to the meridian of $84^{\circ} 30'$ west longitude from Greenwich; thence due north on said meridian to the river Segovia Fantasma or Wauz; thence down said river to the Caribbean sea; thence southerly along the shore of said sea to the place of beginning, and all the rest and remainder of the territory and lands lying southerly or westerly of said reservation heretofore occupied or claimed by the said Mosquitos, including Greytown, they shall relinquish and cede to the republic of Nicaragua, together with all jurisdiction over the same,

in consideration of the nett receipts for a period of three years from all duties levied and collected at Greytown, at the rate of ten per cent. ad valorem on all goods imported into the State; the period of three years to commence on the day when Nicaragua shall formally take possession of and enter into the occupancy of said town. And the said nett receipts shall be payable quarterly, or every three months, to such agent or agents as may be appointed to receive them.

And the said republic of Nicaragua hereby agrees not in any way to molest or interfere with the Mosquito Indians within the territory herein reserved by them.

It is also understood that any grant of land which may have been made by said Mosquitos since the 1st of January, 1848, in that part of the Mosquito territory hereby ceded to Nicaragua shall not be disturbed, provided the said grant shall not interfere with other legal grants made previously to that date by Spain, by the Central American confederation or by Nicaragua, or with the privileges or operations of the Atlantic Ship Canal Company or Accessory Transit Company, and shall not include territory desired by the Nicaraguan government for forts, arsenals or other public buildings.

ARTICLE 2.

It is also understood that nothing in the preceding article shall preclude the conclusion of such voluntary compact and arrangement between the State of Nicaragua and the Mosquito Indians, by which the latter may be definitely incorporated and united with the State of Nicaragua, it being stipulated that in such case the said Mosquito Indians shall enjoy the same rights and be liable to the same duties as the other citizens of the said State of Nicaragua. The municipal and public authority in the town of Greytown shall be held and exercised by the government of Nicaragua, but said government shall lay no duties of tonnage nor any duties of impost on goods imported into Greytown, intended for transit across the isthmus or for consumption in any other State than that of Nicaragua, except such tonnage duty as may be necessary for the preservation of the port and harbor and the erection and maintenance of necessary light-houses and beacons; and no duty for this or similar purposes shall exceed say twelve cents per ton on each vessel.

ARTICLE 3.

The boundary between the republics of Nicaragua and Costa Rica shall begin on the south bank of the Colorado, at its confluence with the sea, at high water mark on said river; thence along said south bank, also at high water mark, to the confluence of the Colorado with the river San Juan; thence, at high water mark, along the south bank of the San Juan to its source on lake Nicaragua; thence, at high water mark, along the south and west shore of that lake to the point nearest the mouth of the river La Flor; thence by a direct line drawn from that point to the mouth of the said

river in the Pacific ocean. It is understood, however, that Costa Rica retains the right, in common with Nicaragua, to navigate said rivers and lake by sail vessels, barges, or vessels towed, but not by steam; but this right is in no wise to interfere with the paramount right in Nicaragua or her grantees to appropriate the waters of said rivers and lake to a ship canal from ocean to ocean, or from the Caribbean sea to said lake. It is also understood that the company entitled the American Atlantic and Pacific Ship Canal Company shall have the privilege of locating, on the south bank of the St. John river, four of the eight stations or sections of land referred to in the 27th article of the amended charter of said company, as ratified by the government of Nicaragua on the 11th April, 1850. If, however, the said company should desire to locate more than the said four sections on the south side of the San Juan the governments of Nicaragua and Costa Rica will amicably agree in regard to the terms of such location.

ARTICLE 4.

Neither the government of Nicaragua nor the government of Costa Rica shall be at liberty to erect or suffer to be erected any wharf, wall, embankment or other structure, or to do or suffer to be done any act or thing whatever in the harbor of Greytown, in any part of the Colorado or San Juan rivers, or on the shore of Lake Nicaragua, which shall obstruct the free operations of the ship canal or transit company, or hinder the passage of their boats in, along and through the said harbor of Greytown and rivers Colorado or San Juan. And if, after a proper survey of the route for a ship canal between the two oceans; it shall be found that it would be preferable for that canal to pass in part along the southern bank of the river San Juan or the Colorado river, the government of Costa Rica engages to grant any lands and to afford any facilities which may be necessary for the construction of the said canal.

ARTICLE 5.

Whereas it is stipulated by the second article of the convention between Great Britain and the United States of America, concluded at Washington on the nineteenth day of April, 1850, that vessels of the United States or Great Britain traversing the said canal, shall, in case of war between the contracting parties, be exempt from blockade, detention or capture by either of the belligerents; and that that provision should extend to such a distance from the two ends of the said canal as might thereafter be found expedient to establish. Now, for the purpose of establishing such distance, within which the vessels of either of said nations shall be exempt from blockade, detention or capture by either of the belligerents, it is hereby declared that it shall extend to all waters within the distance of twenty-five nautical miles from the termination of said canal on the Pacific and on the Atlantic coasts.

ARTICLE 6.

Whereas by the seventh article of the said convention it was among other things stipulated, that if any persons or company had already made, with any State through which the proposed ship canal might pass, "a contract for the construction of such a canal as that specified in said convention, to the stipulations of which contract neither of the contracting parties in that convention had any just cause to object; and the said persons or company had, moreover, made preparations and expended time, money and trouble on the faith of such contract, it was thereby agreed that such persons or company should have a priority of claim over every other person, persons or company, to the protection of the governments of the United States and Great Britain, and should be allowed a year from the date of exchange of ratifications of that convention for concluding their arrangements and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that, if at the expiration of the aforesaid period such persons or company should not be able to commence and carry out the proposed enterprise, then the governments of the United States and Great Britain should be free to afford their protection to any other persons or company that should be prepared to commence and proceed with the construction of the canal in question; and whereas at the time of the signature of the said convention a company, styled the American Atlantic and Pacific Ship Canal Company, had, with the government of the republic of Nicaragua, a contract for constructing a ship canal between the said oceans, but, for reasons deemed sufficient by the governments of Great Britain and the United States, have not hitherto been able to comply with the stipulations which gave them a claim to the protection of the said governments; and whereas no other company has claimed such protection on the same conditions, it is therefore agreed that the further time of one year from the exchange of the ratifications of this convention shall be allowed the said company to comply with the stipulation aforesaid.

ARTICLE 7.

And whereas by another charter of the 11th of April, 1850, to the American Atlantic and Pacific Ship Canal Company, the State of Nicaragua, with a view to facilitate the construction of that canal, has authorized the said company to separate from their contract of the 22d of September, 1849, the part relating to the navigation of the waters of Nicaragua by steam under the title of the Accessory Transit Company. And whereas the said Accessory Transit Company has for some time past been in full and successful operation, the governments of Great Britain and of the United States hereby engage to extend their protection to the said Accessory Transit Company in the same manner and to the same extent as by the aforesaid convention, of the 19th April, 1850, and by this convention the

said protection is extended to the Atlantic and Pacific Ship Canal Company; but as the main object of the said convention between Great Britain and the United States of America was to provide for an inter-oceanic ship canal between the Atlantic and the Pacific, and as that object is still deemed paramount to every other mode of transit, the protection hereby extended to the Accessory Transit Company shall not be construed to interfere with the right to construct said canal by the company which has undertaken to construct the same, or in case of their failure by any other person or company which may be authorized to construct the same, and every grant and privilege conferred upon said Accessory Transit Company shall be subject to the paramount right and privilege of any other persons or company to construct, maintain and use such canal. Finally, these propositions, so far as they respect the governments of Nicaragua and Costa Rica, are advisory and recommendatory, and the immediate attention of those governments to their consideration is earnestly invoked. To insure a prompt decision Mr. Wyke, counsel general of her Britannic Majesty, clothed with full power for that purpose, Mr. Kerr, chargé d'affaires of the United States to Nicaragua, and Mr. R. M. Walsh, appointed special agent on the part of the United States to the government of Costa Rica, are authorized to communicate the arrangement proposed to those governments respectively, and unless the aforesaid governments of Nicaragua and Costa Rica shall promptly and without unnecessary loss of time concur in the general basis of this arrangement and adopt proper measures for carrying it into effect, then the governments of Great Britain and the United States will immediately, and between themselves, jointly adopt such measures as they shall deem advisable to carry into full execution the convention between those governments of the 19th April, 1850, and to accomplish the design therein contemplated of an interoceanic communication by canal from the Atlantic to the Pacific ocean by way of the river San Juan and the Lake Nicaragua.

DANL. WEBSTER.
JOHN T. CRAMPTON.

[*The above letter and inclosure appears as—*

I. Document 30, Inclosure 1, in Special Message of President, 14th February, 1856, pp. 70-77.

And the inclosure appears as—

II. Document 8, in Special Message of President, 8th March, 1880, pp. 102-104.

And as—

III. Document 31, in Special Message of President, 29th July, 1882, pp. 91-95.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

30th April, 1852.

(Mr. Webster to Mr. Kerr.)

[No. 11.]

DEPARTMENT OF STATE,
WASHINGTON, April 30, 1852.

SIR: The adjustment of the unsettled questions between the United States, Great Britain, Costa Rica and Nicaragua, in regard to the boundary between the two latter States, and between Nicaragua and the territory claimed by the Mosquito Indians, has for some time past been the subject of negotiations between Mr. Crampton, the British minister, Mr. Molina, the minister of Costa Rica, and myself. Mr. Marcoleta, the minister of Nicaragua, has not been invited or admitted to take part in them. This arose from the fact that at the time they were begun, and until they were nearly concluded, we were not informed that you had been received by the Nicaraguan government, and when we were informed by Mr. Marcoleta's note of the 14th instant that you had been so received, there was no communication from him from which it could be inferred that his instructions would allow him to join in the negotiation upon any acceptable basis. Hopes were for some time entertained that Mr. Molina would unite with us in a basis deemed reasonable by us and which we could recommend to those governments. You will see, however, from the accompanying correspondence between the department and him that these hopes were disappointed. Mr. Crampton and myself accordingly signed alone the paper, a copy of which is herewith enclosed. You will lose no time in laying the same before the Nicaraguan government, and asking its immediate and serious consideration thereof. You will see that it proposes to restore to Nicaragua the port of Greytown and the country north of it as far as the Rama river, for a certain consideration therein stipulated, to be paid by Nicaragua to the Mosquito Indians. To this proposition she will no doubt object by saying that the Mosquito Indians have no right to the territory proposed to be ceded to her, and that it is unreasonable to expect her to pay for that which is already rightfully her own. Without, however, either raising or deciding the question as to her abstract right to the territory in question, the fact that she has not been in possession of it since the 1st of January, 1848, is notorious. Her authority over the territory, such as it was, was

then forcibly expelled and has never been resumed, and whatever may have been the rights or the motives of the party who performed this act, they must be presumed to have been satisfactory to that party, which cannot be expected to stultify itself by voluntarily and without equivalent surrendering that which it risked its reputation, and expended blood and treasure to obtain. By agreeing to pay the compensation proposed, Nicaragua would by no means be chargeable with inconsistency or dishonor, but would only yield to the stronger party—a frequent occurrence in the world's history. On the other hand, the compensation proposed is moderate in amount, and the time and manner of paying it will be made as accommodating to her as could reasonably be desired. She will then have full command of the port of Greytown on both sides of the river San Juan. She will also have the exclusive right to navigate that river by steam. It is true she has contended for a right to the territory on both banks of the San Juan and our proposition cedes the right bank to Costa Rica. The river, however, is obviously the best natural boundary between the two republics, and if, as is presumed to be the fact, Nicaragua, in claiming both banks, has been actuated by a desire to obtain exclusive control of the ship canal, this expectation would not be thwarted by ceding the right bank to Costa Rica. It is probable that the canal, for a great part if not the whole length of the river, will be constructed in the bed thereof by means of locks and dams. Should this prove to be the fact, the possession of the right bank by Costa Rica, pursuant to our proposition, would neither interfere with the construction or the operations of the canal, or with the control of it by Nicaragua.

We also propose to cede the district of Guanacaste to Costa Rica. As this is understood to be in accordance with the wishes of the inhabitants of that district, it is not likely that Nicaragua would find it a desirable possession, even if it were to be retained by her. Besides, one of her supposed motives for persisting in her claim to Guanacaste is the fact that it contains the port of Salinas, on the Pacific, which has sometimes been spoken of as a terminus of the ship canal. Inasmuch, however, as the recent survey by Colonel Childs, in the service of the Atlantic and Pacific Canal Company, has shown that the port of Brito, within the acknowledged territory of Nicaragua, is the most eligible terminus for the canal, if, in claiming Guanacaste, Nicaragua has, to any extent, been actuated by the supposed importance of Salinas, that motive is unfounded.

It is not improbable that some persons of influence and authority

in that republic may have been advised, that if the Nicaraguan government shall reject the plan of settlement proposed by us, a change of administration in this country will result in a change of policy, and that Greytown will be forcibly restored to her should this become necessary. Allowing that this information may be correct, it is obvious that even if Nicaragua were to regain possession of Greytown by this means, her own great object and the principal object of both Great Britain and the United States in interesting themselves in her affairs, namely, the construction of the ship canal, would, probably, be indefinitely postponed; and even the transit by steamboats over her waters, from which it is understood she now enjoys both direct and incidental advantages, would be put an end to.

It is to be hoped, therefore, that moderate counsels will prevail there, and that the opportunity now afforded her, (which will probably be the last one), of peaceably settling the complicated questions which have been so long pending, will not be inconsiderately rejected. It is certain that the ship canal can never be even begun until every discernible cause for internal convulsion or foreign war in that quarter shall have been removed. If, however, the adjustment proposed should be accepted by her, to the confidence in the practicability of the work, which the recent survey is calculated to inspire capitalists, will be added the more important confidence, that their funds invested in its construction will not be subjected to risks arising from the causes adverted to.

It is desirable that the decision of Nicaragua should be prompt, so that it may be known here in season for a quadripartite treaty to be signed here, and submitted to the United States Senate at its present session. In order to save time, and prevent the necessity of a further reference of the subject to that country, both the legislature and president of the republic should act upon the subject, and ratify the quadripartite treaty which Mr. Marcoleta may then be instructed to exchange.

I am, sir, very respectfully, your obedient servant,

DANIEL WEBSTER.

J. BOZMAN KERR, Esq., &c., &c., &c.

[*The above letter appears as Document 31 in Special Message of President, February 14th, 1856, pp. 78-79.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

2d May, 1852.

(Mr. Marcoleta to Mr. Webster.)

[*Translation.*]

WASHINGTON, May 2, 1852.

MR. SECRETARY OF STATE: Having seen and read at the department, on Saturday the 1st instant, the communications and the bases which have lately been discussed between the Secretary of State of the American Union, her Britannic Majesty's minister, and Mr. Molina, minister of Costa Rica, in relation to the port of San Juan, the Mosquito matters having been treated and discussed without consulting, inviting or admitting the representative of Nicaragua to such discussions, so that he might take a part in transactions which affect, in so direct a manner, the interests and rights of his government, the undersigned would consider himself as wanting in the performance of his duty if he were not to protest against that act.

The undersigned therefore, proceeds to protest in due form against the exclusion which has been made in these matters of the representative of Nicaragua near the government of the American Union.

The undersigned avails himself of this opportunity to renew to the honorable Secretary of State the assurances of his most distinguished consideration.

J. DE MARCOLETA.

Hon. DANIEL WEBSTER,
Secretary of State, &c., &c., &c.

[*The above letter appears as Document 32 in Special Message of President, 14th February, 1856, pp, 79-80.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

4th May, 1852.

No. 12.

(Mr. Hunter to Mr. Kerr.)

[*Extract.*]

DEPARTMENT OF STATE,
WASHINGTON, May 4, 1852.

SIR: After the instruction to you of the 30th ultimo was signed the proposition of Mr. Crampton and Mr. Webster was a little

changed. The only material alteration, however, was that as the proposition originally agreed upon allowed the canal company to locate two sections of land on the south bank of the San Juan, the proposition, as signed, makes that number four instead of two. This will explain what otherwise might have appeared to you as a discrepancy between the number of sections mentioned in the correspondence with Mr. Molina and the number stipulated for in the proposition.

* * * * *

I am, sir, very respectfully, your obedient servant,

W. HUNTER,
Acting Secretary.

J. BOZMAN KERR, Esq., &c.

[The above letter appears as Document 33, in Special Message of President, 14th February, 1856, p. 80.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

4th May, 1852.

(Mr. Hunter to Mr. Walsh.)

DEPARTMENT OF STATE,

WASHINGTON, May 4, 1852.

SIR: After the instruction to you of the 29th ultimo was signed a slight alteration was made in the proposition signed by Mr. Webster and Mr. Crampton, giving to the canal company the right to locate four instead of two sections of land on the Costa Rican side of the river. This will explain what otherwise might have appeared as a discrepancy between the number of sections mentioned in the correspondence with Mr. Molina and those mentioned in the proposition itself.

It is not, however, by any means certain that the canal company will ultimately find it for their interest to locate perhaps more than one section on that bank. If, however, the reverse should prove to be the fact, as Costa Rica will have jurisdiction over the whole, and as the lands reserved by her will be increased in value in direct proportion to those which may be occupied by the company, she will

unquestionably consult her true interest by agreeing to the proposition as it stands.

I am, sir, very respectfully, your obedient servant,

W. HUNTER,
Acting Secretary.

ROBERT M. WALSH, Esq., &c., &c.

[*The above letter appears as Document 34, in Special Message of President, 14th February, 1856, pp. 80-81.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

5th May, 1852.

(Mr. Hunter to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, May 5, 1852.

SIR: I have the honor to communicate a copy of the proposition to be addressed to the governments of Costa Rica and Nicaragua, respectively, for the adjustment of their differences in regard to the boundary between those republics, as finally agreed upon and signed by Mr. Webster and Mr. Crampton. You will notice that this proposition differs from the one in which you were invited but declined to join, inasmuch as it allows the canal company to locate four instead of two only of their eight sections of land on the Costa Rican side of the San Juan river. Although your refusal to co-operate in the recommendation was understood to be based upon the fact that your instructions did not warrant you in agreeing to permit the company to locate any of their lands on the south side of the river without a specific equivalent therefor to Costa Rica, it is hoped that your government, on maturely weighing all the circumstances of the case, will ultimately agree to allow even the four sections adverted to to be located there. In the first place, it may be considered questionable whether the company will deem it to comport with their interest to locate perhaps more than one section on the right bank of the San Juan. In the next place, even if they were to locate four sections there, the lands themselves and the persons occupying or living on them, would be subject to the laws of Costa Rica. It is notorious, however, that the lands have not now any appreciable value. Their future value will be in direct proportion to the amount of capital and skill which may be applied to the

development of their resources. If, therefore, the company should apply capital and skill to the cultivation of the sections allotted to them, this, besides raising the value of the lands reserved by Costa Rica, will give her an important source of direct revenue and other incidental advantages. These and other obvious considerations are commended to your candid consideration and to that of your government.

I avail myself of this occasion, sir, to offer to you an assurance of my very high consideration.

W. HUNTER,
Acting Secretary.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 35, in Special Message of President, 14th February, 1856, p. 81.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

8th May, 1852.

(Mr. Molina to Mr. Hunter.)

LEGATION OF COSTA RICA,
WASHINGTON, May 8, 1852.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, accompanying a copy of the proposition to be addressed to the governments of Costa Rica and Nicaragua, respectively, for the adjustment of their differences in regard to the boundary question between those republics, as was finally agreed upon and signed by Mr. Webster and Mr. Crampton.

You very appropriately remark that this plan differs from the one in which I was invited but declined to join, inasmuch as it allows the canal company to locate *four* instead of *two* only of their eight sections of land on the Costa Rican side of the San Juan river; and thereupon you kindly proceed to enlarge on those considerations which, in your opinion, might induce the Costa Rican government to accede to the concession, even in this extended form.

In reply I beg to say that I will take the earliest opportunity to transmit the project in question to my government, together with a copy of your letter, that new instructions may be sent to me.

I regret, nevertheless, to observe, that the proposed adjustment involves a far greater difficulty than even the cession (without any

indemnity or restriction of choice) of the lands alluded to; I mean the perpetual surrender therein stipulated, on the part of Costa Rica, of her right to navigate by steam vessels the Colorado and San Juan rivers and the Lake of Nicaragua. I question very much whether Costa Rica will ever be disposed to subscribe to an absolute surrender of that right, although in order to facilitate the construction of the ship canal, she has been and is still willing to abandon to Nicaragua the control and direct advantages of the enterprise for such a period of years as may seem necessary to carry out that undertaking.

I have the honor to renew to you the assurance of my most distinguished consideration.

F. MOLINA.

WILLIAM HUNTER, Esq.,

Acting Secretary of State of the United States.

[*The above letter appears as Document 36, in Special Message of President, 14th February, 1856, p. 82.*]

34th Congress, 1st Session,
Senate. Ex. Doc. No. 25.
In Vol. 10.

13th May, 1852.

(Mr. Hunter to Mr. Kerr.)

[No. 13.]

DEPARTMENT OF STATE,

WASHINGTON, May 13, 1852.

SIR: Since the last despatch to you on the subject, it has occurred to Mr. Crampton and myself that if the following two slight modifications of the proposition to Nicaragua and Costa Rica shall be made its chance of ultimate success will be much increased.

Towards the close of Article one, after the words "in that part of the Mosquito territory hereby ceded to Nicaragua" insert the following: "Which grants shall have been attended with residence on or possession of the land granted!" After the words "interfere with," strike out the words "other legal grants made previously to that date by Spain, by the Central American confederation or by Nicaragua."

To Article III, add the following; "But it is understood that nothing in this article contained shall prevent the republic of Costa Rica from resuming its rights to navigate the said river and lake by steam vessels, when the charters of the Atlantic and Pacific

Ship Canal Company or Assessory Transit Company shall either have expired by their own limitation or shall have been legally forfeited."

You will accordingly propose these modifications to the Nicaraguan government.

I am, sir, very respectfully, your obedient servant,

W. HUNTER.
Acting Secretary.

J. BOZZMAN, KERR, Esq., &c., &c., &c.

[*The above letter appears as Document 37, in Special Message of President, 14th February, 1856, pp. 82-83.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

14th May, 1852.

(Mr. Webster to Mr. Lawrence.)

[*Extract.*]

[No. 77.]

DEPARTMENT OF STATE,
WASHINGTON, May 14, 1852.

SIR: Your dispatches, to No. 176, inclusive, have been received.

On the 30th ultimo, as you may have been informed through another channel, Mr. Crampton and myself agreed upon and signed a proposition to Costa Rica and Nicaragua for the adjustment of their disputes upon the subject of boundary and also for the adjustment of the controversy between Great Britain and Nicaragua in regard to the territory claimed by the Mosquito Indians. If this proposition should be accepted by those republics, a quadripartite treaty will probably be entered into by them, Great Britain and the United States. A principal impediment to the commencement or successful progress of the ship canal through Nicaragua will then have been removed.

Considering that the United States and Great Britain have jointly agreed to protect such a canal, and in consequence of their possessions on the coast of the Pacific, and other obvious causes, have a similar interest in its success, it seems desirable that the capital required for its construction should be advanced by the citizens and subjects of both countries. If, however, English capitalists should not be disposed to invest their funds in the enterprise, the means for

its construction can easily be obtained in this country whenever our citizens shall be satisfied of its practicability, and that it would yield a regular and fair profit. Convinced of the great importance of the work, the Government of the United States would always be disposed to aid in the prosecution thereof to the full extent of its constitutional power. It is not likely, however, that the canal company will need any such assistance from this government.

The practicability of the canal may now be considered as certain. The survey under Colonel Childs, whose high professional and personal character are probably known to you, was some time since completed. He recently visited this city, bringing with him maps, plans, and estimates for the work. By direction of the President these were laid before Colonels Albert and Turnbull, of the United States Topographical Engineers, for examination and reports. The report of these officers has confirmed the accuracy of the estimates of Colonel Childs. No doubt is entertained that they will receive a similar confirmation from any military or civil engineers in England to whom they may be submitted.

* * * * *

I am, &c.,

DAN'L WEBSTER.

[*The above letter appears as Document 32, in Special Message of President, 29th July, 1882, p. 95.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

19th May, 1852.

(Mr. Hunter to Molina.)

DEPARTMENT OF STATE,
WASHINGTON, May 19, 1852.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant.

If, as you remark, Costa Rica should entertain insurmountable objections to a surrender, in perpetuity, of the privilege of navigating the Colorado and San Juan rivers and lake Nicaragua by steam vessels, it is presumed that she could not reasonably object to enter into a stipulation promising a surrender of the same until the charters of the Atlantic and Pacific Ship Canal Company and of the Accessory Transit Company shall either have expired by their own

limitation or shall have been legally forfeited. As the principal purpose of the United States and Great Britain in proposing to give to Nicaragua the exclusive right to steam navigation on that lake and those rivers was to protect franchises acquired in good faith from Nicaragua, if that purpose could be accomplished, no good reason is perceived why that right should not be limited to the duration of the franchises referred to.

I avail myself of this occasion, sir, to offer you a renewed assurance of my very high consideration.

W. HUNTER,
Acting Secretary.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 38, in Special Message of President, 14th February, 1856, p. 83.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

28th May, 1852.

(Mr. Walsh to Mr. Webster.)

[No. I.]

GREYTOWN, May 28, 1852.

SIR: We arrived here in the *Saranac* the 25th, and will proceed to San José as soon as we can make our preparations for the long and arduous journey before us—a journey, for the most part, through a wilderness, which compels the traveller to take with him everything that may be needed on the way. We hope to be off the day after to-morrow, though the listlessness of the people with whom we have to deal will take its own time in spite of every effort to stimulate it. The prices, also, demanded for boats and mules are so extortionate as almost to exceed belief. Unfortunately the water in the river San Juan is now so low that steamers cannot run, and we find ourselves obliged to employ the row boats of the country—a necessity productive of delay as well as of inconvenience and expense. The chief impediment, however, has been the difficulty of procuring mules to be in readiness for us at the spot where the Sarapiquí ceases to be navigable. I greatly regret the detention on all accounts.

The flag of the Mosquito king is still flying here, but that is the only evidence of his sovereignty. The control of the town is in the hands of the foreign residents, principally Americans,

who recently elaborated a constitution for themselves and elected a complete set of authorities. The natives were allowed to vote, and two or three of them obtained majorities for certain offices, but on some pretext of illegality their election was annulled. Upon what ground that illegality was established was not made clear to the apprehension of the natives, who in consequence were with difficulty restrained from expressing their dissatisfaction in a belligerent manner. The practical interpretation would seem to be that the fact of being born here is a disqualification for being elected if not for electing, and that only those who do not labor under this disadvantage are entitled to all the privileges of citizenship. The mayor is an American named Martin, who appears to possess a kind of energy and talent well adapted to his anomalous and difficult position—a position in which justice, while wielding her sword in one hand, is obliged to point a revolver with the other. He has just won considerable credit by the mode in which he discovered and brought to justice the perpetrators of a robbery of a large sum of money from a Frenchman, who arrived here the other day on his return from California. A part of the money has already been recovered, and hopes are entertained of finding the rest. The excitement among “the Californians,” of whom there is a numerous body now here waiting for the next steamer, assumed for a time quite a threatening aspect. They were apprehensive that the robbers would not be properly dealt with, and seemed determined upon taking justice into their own hands, but the regular way in which the trial was conducted removed their suspicions, and the ultimate conviction of the culprits re established peace. Two or three of the gang are, I believe, to be hung, and minor punishments will be inflicted on others. The whole action of the court was under the authority of the new constitution, which completely ignores the dominion and laws of the indigenous aspirants to the sovereignty of the town. The framers of this constitution would seem to cherish views of an eminently progressive nature, for in the article defining the limits of the embryo metropolis it is declared that they “commence at the mouth of the Indian river, thence run up through the channel of said river *fifteen* miles, thence in a direct line, so as to include the head of the Machuca rapids, thence down the San Juan river to its junction with the Colorado, thence down the channel of the Colorado to the Caribbean Sea”—an area of some fifty or sixty square miles! The object of the foreigners here is avowedly to establish a free port with as

much circumjacent territory as possible, and they loudly proclaim that they will never submit to the rule of any native power.

To Nicaragua they bear especial hate, which may prove a source of trouble in the execution of the treaty should it be concluded. It is almost certain that without some such aid as the treaty would afford, that country will never be able to obtain possession of the town, for there can be little doubt of the ability of the inhabitants to repel any attack. Indeed, if the stories told of the weakness and degradation of the Nicaraguans be true, one may easily credit the assertion of "Greytowners" that they can take the whole republic whenever they please. A step towards this result may, perhaps, be the appropriation of the district marked out by the article of the constitution alluded to above. Coming events cast their shadows too plainly in this quarter to need a prophet's eye to discover them.

I have the honor to be, sir, with great respect, your obedient servant,

ROBERT M. WALSH.

Hon. DANIEL WEBSTER,
Secretary of State.

[*The above letter appears as Document 39, in Special Message of President, 14th February, 1856, pp. 84-85.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

8th June, 1852.

(Mr. Lawrence to Mr. Webster.)

[No. 188.]

LEGATION OF THE UNITED STATES,
LONDON, June 8, 1852. (Received June 26.)

SIR: I have the honor to acknowledge the reception of your dispatch, No. 77, of 14th of May.

I rejoice to learn that Mr. Crampton and yourself have agreed upon and signed a proposition to Costa Rica and Nicaragua for the adjustment of their disputes upon the subject of boundary, and also for the adjustment of the controversy between Great Britain and Nicaragua in regard to the territory claimed by the Mosquito Indians. I hope Nicaragua will accept the proposition, of which, however, I entertain some doubt.

I am not acquainted with the terms of the proposition, nor, in-

deed, do I deem them of great importance, so that they guarantee perfect safety against aggressions upon the rights of the several parties interested, and prevent collisions between the United States and Great Britain.

With respect to the construction of the canal, I have often expressed my anxious desire that all questions touching the Mosquito Indians and the disputes between Nicaragua and Costa Rica should be definitely settled, in order that the canal company might be organized and the work commenced. In December last, Messrs. Vanderbilt and White wrote to me and to several other persons in London that the report of Colonel Childs would be completed and sent here in February of this year. The report, however, did not arrive, nor do I know the cause of its being delayed. Messrs. Fox, Henderson & Co., after waiting several weeks for it, concluded to send out a corps of engineers on their own account to survey a route between Port Escoces and the Gulf of San Miguel (and perhaps other routes) for a canal. It was proposed to send a British and United States engineer to report upon their surveys, and Lord Malmesbury appointed one on the part of the British Government, who was on the point of embarking for Washington, when, from some cause which his lordship said he would explain, it was decided not to send an engineer. I believe I have already communicated these facts to you. I hope the report of Colonel Childs may soon arrive, as the abundance of money is such as to make the present time favorable for the organization of a company and placing the stock in the hands of capitalists.

I have great confidence in the skill, judgment, and integrity of Colonel Childs; and the fact that Colonels Albert and Turnbull have verified his report will give confidence at home and abroad. I hope the report may be submitted to an examination here in order that a like feeling may be produced and strengthened in this government and people.

There is an understanding among those who have taken a deep interest in this work, that one-half of the stock should be offered to capitalists here, and the remainder to capitalists in the United States, and in case either party declined or did not subscribe for their full amount the other party should have a right to that portion remaining unsubscribed, or the whole if there were no subscriptions. The details, however, of organization must all be left to the proprietors.

I repeat the desire that Colonel Childs' report (and the colonel himself) may be here at an early day, and have, &c.

ABBOTT LAWRENCE.

[*The above letter appears as Document 33, in Special Message of President, 29th July, 1882, p. 96.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

11th June, 1852.

(Mr. Walsh to Mr. Webster.)

[No. 2.]

SAN JOSÉ, June 11, 1852.

SIR: We left Greytown on the 31st ultimo and got here the 8th instant, after a journey of which it would be difficult to describe the fatigue and the risks. Four days and three nights were spent in the boat in which we were rowed to the landing place of the Serapiqui; and for four days and a half in crossing the mountains to this place—scrambling up and down precipices of most formidable aspect, or wading through quagmires from which extrication, at times, seemed to be almost impossible.

It will be out of the question for Costa Rica to cultivate much intercourse with the foreign world until a road is constructed to the Serapiqui. At the landing place there is a sort of military post, where we were received by the officer in command with all due courtesy, and had the satisfaction of finding mules and men to carry our luggage and provisions, sent by the government itself, which had been apprised of our coming by the messenger we had dispatched to procure the means of transport. When within a few miles of this city, we were met by an aid-de-camp of the president, with a note from him, congratulating us on our arrival, and placing a house at our service, to which we were immediately conducted. It is among the best in the town, belonging to one of the principal families, who moved from it expressly for our accommodation—an act of hospitality and kindness well deserving of record. There is evidently a disposition to manifest all possible friendliness, both public and private, the mission being regarded not only as a compliment, but as something from which good may accrue to the country.

We have had interviews with the president and minister of foreign relations, and have sent to the latter a copy of the proposed arrangements, with alterations directed to be made in it by the dispatch of 13th May, from the acting secretary of state. There are good grounds, I think, for expecting a prompt acquiescence in the views of the two governments.

I have the honor to be, sir, with great respect, your obedient servant,

ROBERT M. WALSH.

Hon. DANIEL WEBSTER,
Secretary of State.

[*The above letter appears as Document 40, in Special Message of President, 14th February, 1856, pp. 85-86.*]

24th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

25th June, 1852.

(Mr. Walsh to Mr Webster.)

[No. 3.]

SAN JOSÉ, June 25, 1852.

SIR: Enclosed are copies of correspondence with the minister of foreign relations and a decree of the legislative body, approved by the president, from which you will perceive that the government of Costa Rica has given its full consent to the proposed treaty. The modifications suggested in the last note of the minister are mere requests, in no way affecting that consent. They were discussed in our conferences, but we could only promise to communicate them to our governments with a recommendation of them to their kindly consideration. This government seems to be animated in all respects with the very best spirit, on which too much praise can scarcely be bestowed.

We shall proceed to Nicaragua without delay. If not unexpectedly detained there, I may be able to return to Washington by the end of next month, taking with me the originals of the documents above mentioned.

I have the honor to be, sir, with great respect, your obedient servant,

ROBERT M. WALSH.

Hon. DANIEL WEBSTER,
Secretary of State.

[INCLOSURE NO. 1.]

(Messrs. Walsh and Wyke to Don Calvo.)

SAN JOSÉ, June 16, 1852.

The undersigned, commissioners of the United States and Great Britain, have the honor to enclose to his excellency the minister of foreign relations a copy of the propositions which they are directed by their governments to offer for the adjustment of the difficulties in regard to limits between the republics of Costa Rica and Nicaragua. It was after full investigation and mature deliberation that the two governments determined upon these propositions as most conducive to the ends of justice and the interests of the contending parties; and they cherish the confident hope that they will be promptly and willingly accepted.

The advantages to Costa Rica which will accrue from their acceptance are various and all-important. She will be relieved, in the first place, from that state of harrassing agitation which the perpetual danger of foreign hostilities must keep up, and which is so baleful in its influence upon the industry and progress of a people. Men care not to work for the future when that future is clouded over with uncertainty and apprehension. To remove an evil of such magnitude great sacrifices may well be authorized; and were no other inducement presented, this alone would be sufficiently strong to call for a ready acquiescence in any arrangement which secures the blessings of tranquility without the loss of honor.

But Costa Rica, in the next place, is not asked to make any concessions for which adequate compensation is not tendered. If she abandons some of her pretensions on the Atlantic, she establishes all of her pretensions on the Pacific. If she yields the barren delta of the Colorado, she gains the fertile district of Guanacaste. Even on the Atlantic side, also, she obtains the acknowledgement of an important right which she has not hitherto been able to enjoy—that of having the River San Juan for her boundary, and navigating it with all descriptions of vessels which do not interfere with the indispensable privileges of the company that has been formed for the construction of the interoceanic canal.

Again, a cheerful compliance with the proposals of the two governments will have the effect of awakening in them sentiments of kindness towards this country, which cannot fail to be attended with great and increasing benefit. The time is manifestly at hand when the relations between Costa Rica and the other nations of the earth are to be placed on a new and more elevated footing—when the comparative seclusion, in which she has heretofore dwelt, is to be exchanged for that intercourse with the world which it is the interest and the duty of every government to promote, as one of the chief guardians of civilization and the firmest bond of brotherhood among men. Of the

friendly ties which will thus be formed, the most important certainly must be those which will connect her with Great Britain and the United States—countries whose position and influence point them out as allies from whose good offices the most useful aid may be derived.

The advantage that will result to Costa Rica from the construction of the canal should also be taken into account. To over estimate it, indeed, would be difficult. The door will be at once opened to the beneficial intercourse alluded to above, and the whole of this beautiful region will soon be brought under the fertilizing flow of a healthy emigration. The geographical position of Costa Rica is admirable—its moral position will be commensurately raised. Abounding in all the elements of national prosperity, what it needs is a population adequate to their full development. Such a population will be a certain consequence of the opening of the proposed route—not mere adventurers, seeking immediate gain at whatever detriment to others or hazard to themselves; but permanent, effective laborers in the great field of improvement.

Another, and a final motive which may be adduced, is one that must appeal too powerfully, to a government actuated by such feelings and aspirations as control the government of this republic, to require much stress. The magnificent enterprise in contemplation is not designed for the exclusive benefit of those directly concerned in it, but for the benefit of mankind. The governments that have taken it under their special care are not prompted by narrow and selfish views. Their aim is the accomplishment of a work which will be productive of universal good. The glory to be earned by those who may contribute to it will be of a kind than which the page of history can hardly exhibit any more enviable or exalted—the glory of having created, not only a fresh and abounding channel of material wealth, but another and most efficient means of diffusing peace and good will. Such an opportunity of enrolling her name among the benefactors of the human family is not often accorded to a nation, and it is one which the undersigned cannot doubt will be eagerly seized by the enlightened men who preside over the destinies of Costa Rica.

The undersigned renew to his excellency the assurance of their most distinguished consideration and profound respect.

ROBERT M. WALSH.
CHARLES LENNOX WYKE.

His Excellency DON JOAQUIN BERNARDO CALVO,
Minister of Foreign Relations of the Republic of Costa Rica.

[INCLOSURE NO. 2.]

(Don Calvo to Messrs. Walsh and Wyke.)

[*Translation.*]NATIONAL PALACE,
SAN JOSÉ, June 11, 1852.

GENTLEMEN: The undersigned had the honor to receive, with a note dated the 10th instant, a copy of the propositions of the governments of the United States and Great Britain for a final settlement of the difficulties relative to the limits between Costa Rica and Nicaragua, and is a source of satisfaction to the undersigned to be able to assure Messrs. Walsh and Wyke that the President of the republic entertains the highest regard for this commission, and that, wishing to enter upon conferences relative to the important object it has in view, he has charged the undersigned, together with the minister of finances, to act accordingly.

If agreeable to Messrs. Walsh and Wyke, said conferences will begin at one o'clock in the afternoon on Tuesday, the 15th instant, at the residence of the commissioners of the United States and Great Britain, &c., &c., &c.

J. BERNARDO CALVO.

[INCLOSURE NO. 3.]

(Don Calvo to Messrs. Walsh and Wyke.)

[*Translation.*]NATIONAL PALACE,
SAN JOSE, June 16, 1851.

GENTLEMEN: Having considered the bases agreed upon by the governments of Great Britain and the United States for a definite adjustment of the question of territorial limits between Costa Rica and Nicaragua, and other objects of interest, the most excellent president of the republic has, on this day, been pleased to dictate the following resolution:

“ Having seen and examined the convention signed at Washington, on the 30th of April of the present year, by the representatives of the governments of Great Britain and the United States, the object of which convention is to propose bases for an adjustment of the question of territorial limits between the republic of Costa Rica and the State of Nicaragua, other points relative to the Mosquito territory and the interoceanic Atlantic-Pacific canal, being, at the same time, determined in said bases; sundry conferences having been held between the cabinet ministers of this government and Messrs. R. M. Walsh, special envoy of the government of the United States, and C. L. Wyke, consul gen-

eral of her Britannic Majesty, and considering, that although one of the limits to the north of the territory of the republic has been, and is, by the constitution and various authentic documents in existence, the mouth of the river San Juan, where it empties itself into the Atlantic ocean, and notwithstanding that the republic was not consulted at the time of concluding the contracts which were entered into for the great work of the interoceanic canal across the Isthmus, and that the independence of Costa Rica is not directly affected by questions with the Mosquitos, yet, in deference to the respected mediation of the governments of the maritime powers of Great Britain and the United States of North America, to the great interest of all commercial nations of Europe and America, in the construction of the interoceanic canal, and to the desire of settling, in a peaceful and friendly manner, with our neighbor, the State of Nicaragua, the territorial questions now pending, the executive power of the republic of Costa Rica, in Central America, assents, adheres and subscribes to the bases agreed upon in Washington, on the 30th of April last, and contained in seven articles, which have been presented to this government by Messrs. Robert M. Walsh, envoy of the United States, and Charles L. Wyke, consul general of her Britannic Majesty, especially authorized to that effect, and the republic will, in due time, co-operate in the formation of a definite treaty, which is to be concluded upon said basis. Let the legislative power be informed of this resolution, in order that it may be pleased to approve the same if it thinks proper, and let Messrs. Walsh and Wyke be notified of the fact, for their information."

And in transmitting to Messrs. Walsh and Wyke the foregoing resolution, the undersigned has been ordered to state that it would be desirable that, in the definite treaties, Costa Rica might not be so much sacrificed in defining her territorial limits, by taking, at the north, the Rio Colorado instead of the northern branch of the river San Juan, seeing that the right which the republic preserves and possesses, from time immemorial, to the aforesaid river of San Juan to the point where it empties itself into the Atlantic is indisputable; which is the northern limit of said republic, designated by the constitution and recognized by Spain, the Holy See and other powers with which there are treaties in existence. That it would be likewise to be desired that no right should be vested in the interoceanic canal company to ask any tract of land over the territory of Costa Rica, in view of the fact that neither the government of Nicaragua nor the aforesaid company invited the government of the republic to co-operate in the contract relative to the canal enterprise, but that, on the contrary, said government was disregarded, by disposing *de facto* of the territory of its jurisdiction, or which at least was questionable, but which it possessed in good faith and by a just title. But if it should be insisted to grant to the canal company the right aforesaid on the territory of Costa Rica, then it is to be hoped that each section of territory shall not exceed three square miles, or what is the same, one league in longitude and

ditto in latitude—the republic reserving to itself full dominion and the exercise of its sovereignty over any company or colony which may be established in each of the aforesaid sections of land. That in the same manner it would be desirable that if, owing to circumstances beyond our control, it should be sought to carry out the right of the company to occupy other sections of land on the territory of Costa Rica instead of taking the same on the territory of Nicaragua, this government shall not be compromised into any subsequent arrangement with the government of that State, but that the company shall negotiate with the former the indemnity which may be due to Costa Rica—a convention to that effect being previously concluded. That it would be likewise to be desired to lay down in the treaty this principle: that in no case shall discriminating import duties be established in San Juan in regard to any State, nor heavier duties than those which are levied on the most favored nations, whatever may be the port duty and whatever may be the produce and articles of exportation; and finally, that it would be likewise to be desired that the fulfilment of the treaty should be left, by an express article, under the respected guaranty and vigilance of the governments of the United States and Great Britain.

The government of Costa Rica hopes, from the enlightened judgment of Messrs. Walsh and Wyke, that they will be pleased to take fully into consideration the arguments advanced, and that they will use their immediate influence in enforcing said arguments upon the high consideration of their respective governments, whose equity inspires the authorities and the people of this republic with the utmost confidence.

The undersigned, &c., &c., &c.

J. BERNARDO CALVO.

[INCLOSURE No. 4.]

(Messrs. Walsh and Wyke to Don Calvo.)

SAN JOSÉ, June 17, 1852.

The undersigned have the honor to acknowledge the receipt of the note of his excellency the minister of foreign relations, dated yesterday, communicating to them the resolution of the president of the republic, by which he consents to the propositions made by their governments for the adjustment of boundaries between Costa Rica and Nicaragua, and which, he informs them, will be submitted to the legislative body for approval.

It is with sincere gratification that the undersigned have learned this decision of the president, so worthy of his eminent character; and they doubt not that the wisdom and patriotism of the legislature will sanction it without delay.

The remarks added by the minister respecting the changes which the gov-

ernment of Costa Rica would wish to have made in the definitive treaty to be celebrated at Washington, will be conveyed to the two governments at the earliest moment, and cannot fail to receive a respectful and friendly consideration, &c., &c., &c.

R. M. WALSH.
C. L. WYKE.

[INCLOSURE NO. 5.]

(Decree.)

[*Translation.*]

Inasmuch as there has been received from the M. E. national executive the decree No. 10, of yesterday, which says:

“No. 10. Juan Rafael Mora, president of the republic of Costa Rica. Inasmuch as the M. E. constitutional congress has decreed the following: The M. E. constitutional congress of the republic of Costa Rica, in view of the bases agreed upon in Washington, by the representatives of the two great powers of Great Britain and the United States of the north, relative to the question of territorial limits which exists between the State of Nicaragua and the republic of Costa Rica, and in view of the approbation which the supreme executive power has given to the same, decrees—

“*Only Article.*—The assent, adherence, and approval, which the supreme government of the republic has given, in the decree of the 16th instant, to the bases agreed upon in Washington on the 30th of April last, by the representatives of the governments of Great Britain and the United States, for an adjustment between the republic of Costa Rica and the State of Nicaragua, relative to the question of territorial limits, are approved. To the executive power.

“Given at the palace of the supreme powers, at San José, on the 22d day of the month of June, 1852.

“MIGUEL MORA, Vice President.

“BRUMO CARRANZA, Secretary.

“JOSE MARIA GARCIA, Secretary.

“NATIONAL PALACE, San José, June 23, 1852.

“Therefore, let the above be carried out.

“JUAN RAFAEL MORA,

“Minister of State in the department of the government.

“JOAQUIN BERNARDO CALVO.”

Therefore, I have thought proper to approve, confirm, and ratify, as by these presents I do approve, confirm, and ratify, the aforesaid bases, consisting of seven articles, and signed at Washington, on the 30th of April of the present

year, by Mr. Daniel Webster, Secretary of State of the United States, and Mr. John F. Crampton, envoy extraordinary and minister plenipotentiary of her Britannic Majesty, the resolution of this government, of the 16th of the present month, being likewise approved, confirmed, and ratified by these presents; and, in virtue of the same, all that relates to it, respecting the aforesaid bases and the above mentioned resolutions, shall be fulfilled and observed in the republic of Costa Rica.

In faith of which, I have caused these presents to be issued, per triplicate, signed with my hand, sealed with the great seal of the republic, and countersigned by the secretary of state in the department of foreign relations, at San José, on the 23d day of the month of June, 1852.

JUAN R. MORA,
Minister of State for Foreign Relations.
JOAQU. BERNARDO CALVO. [L. s.]

[INCLOSURE NO. 6.]

(Messrs. Walsh and Wyke to Don Calvo.)

SAN JOSÉ, June 24, 1852.

The undersigned have had the honor to receive the decree of the legislative body confirming the consent of his excellency the president to the propositions made by their governments, together with the note of his excellency the minister of foreign affairs. They beg leave to express their high sense of the excellent feeling and judgment displayed by the government of Costa Rica in the important business which has been so happily arranged. Its whole action in the matter will be duly appreciated by their governments and must tend to strengthen the friendly sentiments which they cherish towards this well regulated and prosperous republic.

The undersigned would avail themselves of this occasion to tender their warmest thanks for the kindness and distinction with which they have been treated since their arrival in the country. It is their intention to leave tomorrow for Punta Arenas, there to embark for San Juan Del Sur. Wherever they go they will carry with them a grateful impression of their residence in Costa Rica, and the sincerest desire for the welfare of its government and people.

The undersigned, &c., &c., &c.

ROBERT M. WALSH.
C. L. WYKE.

[The above letter and inclosures appear as Document 41, Inclosures 1-5, in Special Message of President, 14th February, 1856, pp. 84-92.]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

2d July, 1852.

(Mr. Lawrence to Mr. Webster.)

[*Extract.*]

[No. 194.] LEGATION OF THE UNITED STATES,
LONDON, July 2d, 1852. (Received July 16.)

SIR: * * * I have the honor to transmit also a copy of a note from the Earl of Malmesbury acquainting me with the appointment on the part of Her Majesty's Government of two engineers, to examine the report of Colonel Child's respecting the ship canal which it is proposed to construct through the territory of Nicaragua from the Atlantic to the Pacific ocean, together with a copy of my reply thereto. Lieutenant-Colonel Aldrich and Mr. James Walker, the gentlemen appointed to this service, are eminent in their profession, and any opinion emanating from them will be received by the public with the fullest confidence in their ability and integrity. * * *

* * * * *

I have, &c.,

ABBOTT LAWRENCE.

[INCLOSURE NO. 1.]

(Earl of Malmesbury to Mr. Lawrence.)

The Earl of Malmesbury presents his compliments to Mr. Lawrence, and with reference to his letter of the 16th instant, inclosing Colonel Childs' report respecting the ship-canal which it is proposed to construct through the territory of Nicaragua, from the Atlantic to the Pacific ocean, and suggesting the appointment of two competent engineers to examine that report, has the honor to inform Mr. Lawrence that Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, the eminent civil engineer, have been appointed by her Majesty's government to examine Colonel Childs' report.

Lord Malmesbury begs to add that he has requested the master-general of ordnance to direct Colonel Aldrich to place himself in immediate communication with Mr. Walker, and to proceed to the investigation with the least possible delay.

FOREIGN OFFICE, June 30, 1852.

[INCLOSURE NO. 2.]

(Mr. Lawrence to Earl of Malmesbury.)

Mr. Lawrence presents his compliments to the Earl of Malmesbury and begs to acknowledge the reception of his lordship's note of the 30th instant, acquainting Mr. Lawrence with the appointment of Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, the eminent civil engineer, to examine the report of Colonel Childs, respecting the ship-canal which it is proposed to construct through the territory of Nicaragua from the Atlantic to the Pacific ocean.

Mr. Lawrence begs to assure the Earl of Malmesbury of his entire satisfaction at this intelligence, and to express his sense of his lordship's courtesy in expediting the investigation.

UNITED STATES LEGATION,
138 Piccadilly, July 2, 1852.

[The above letter and inclosures appear as Document 34, Inclosures 1 and 2, in *Special Message of President*, 29th July, 1882, p. 97.]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

17th July, 1852.

(Proclamation of the organization of the British Colony of the Bay Islands,
July 17th, 1852.)

PROCLAMATION.

OFFICE OF THE COLONIAL SECRETARY,
BELIZE, July 17, 1852.

This is to give notice that Her Most Gracious Majesty the Queen has been pleased to constitute and make the islands of Roatan, Bonacca, Utila, Barbarat, Helene, and Morat, to be a colony to be known and designated as "The Colony of the Bay Islands."

AUGUSTUS FREDERICK GORE,
Acting Colonial Secretary.

God save the Queen!

[The above proclamation appears as Document 35, in *Special Message of President*, 29th July, 1882, p. 98.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

28th July, 1852.

(Mr. Kerr to Mr. Webster.)

[*Extracts.*]

[No. 10.] LEGATION OF THE UNITED STATES OF AMERICA,
MANAGUA, July 28, 1852.

SIR: Having arrived at Leon on the 13th ultimo, I took occasion to forward to the department immediately afterwards by the hands of Mr. Heine, a responsible person, the copies of the treaties with Guatemala and San Salvador. I could have no guarantee of safety for these public papers except through a special messenger, and after guarding them in person along the whole route, it would have been extremely vexatious to have lost them by any negligence in others casually in charge. Your Nos. 11, 12 and 13, with accompanying papers, have been received, and my last communication, with the treaties, must now be in Washington.

The letter of Mr. R. M. Walsh, of the 27th of May, with a copy of the proposed adjustment of all boundary and territorial difficulties in Nicaragua, as arranged between Mr. Crampton and yourself on the 30th of April last, reached me on the 21st ultimo, and you will perceive in my letter of the 23d how promptly I took the matter in hand. The papers were transmitted to Mr. Castillon at Managua, and I followed in a few days, expecting that Messrs. Walsh and Wyke might even then be on their way from Costa Rica. It is a long and tedious route, and within a few days only they have reached Nicaragua. Mr. Walsh, overcome by his fatigue, probably, has declined to visit Managua, intending to wait for my dispatches at Granada, and Mr. Wyke, by way of Realejo, came on here two days ago.

A speedy settlement of the Guanacaste question, desirable on so many accounts, had always been kept in view by me, and in my conversations with the more prominent men of the country, I had never failed to point to existing difficulties, as barriers, not only to private enterprise, but to the general good of both States. You may imagine, however, with what pertinacity the Nicaraguans must hold on to the popular idea of rights in Guanacaste and Mosquito, when most of their leading and influential men have, in some form or other, lent their name and influence to the controversy. The present director, Mr. Pinedo, has been a commissioner at one

time in behalf of Nicaragua, and the secretary of foreign affairs, Mr. Castillon, won all his laurels in the discussion of the question. In fact, when I arrived at Granada last July, they were, one and all, rabid on the supposed backing of Costa Rica by England, and all my well intentioned arguments to soothe their offended pride were received with distrust and suspicion. The only hope was, that practical views might take the place of party virulence, so soon as their high hopes of further commerce and wealth should be realized in a judicious and liberal management of the canal and transit scheme. Through the agency of both these corporations they allege, that as a government and a people, they have been grossly duped and deceived. It was just at the moment when such malign influences were at work, that I was called to lay before the government the advisory paper of Mr. Crampton and yourself.

The letter of Mr. Castillon, accompanying the decree of the senate and chamber of representatives, has, as you will perceive, negatived, in the most positive terms, the proposed basis for adjusting the outstanding questions. Strong motives may be found for their decided course in the sneers and insinuations of the other states conveyed in the oft repeated sentiment that Nicaragua was already lost to Central America, having been passed over into the hands of Americans.

The publicity given to my official conduct during the outbreaks at Leon seemed for a while to have neutralized all force in such an idle and mischievous idea, but it has been found to rankle among the politicians so as to exhibit itself under the slightest and most flimsy pretexts.

In my last dispatch, I forwarded the protest of this government of the 8th of May last, which was published at Salvador before it could have been received by me at Guatemala, in due course of mail; and a protest to a like purpose, under date of 6th instant, has been renewed by Mr. Castillon; mere rumors have been exaggerated into hostile acts on the part of Americans at Castillo Viejo, and the proofs, such as they are, will be found attached to the copy of his protest.

The same advantages could have been secured by a slight show of deference to the government; but on the 17th of October last, without consultation with the existing authorities at Granada, a deed was given in the name of the Transit Company to Mr. Weiner, for the site of a house near the old fort. Here is the direct attack on their eminent domain, to which the protest refers in such bitter

terms, and, simple as it seems, it has proved the source of actual
resentment among these people. * * * *

I have never been able to ascertain how far the accessory transit,
as distinct from the canal company, was a measure positively needed
to conserve, in their original integrity, the privileges under the
charter and its supplements; but I did not think August last a
proper time to enter upon negotiations with a provisional govern-
ment, when a civil war was flagrant between two of the leading
parties of the State. The subject was successfully pressed, even
under such peculiar circumstances, and now it seems there is here a
decided reaction, and but for the present effort on the part of the
United States and Great Britain, presenting a moral spectacle to the
world for the applause of just and generous men, the great project
of an interoceanic canal would have failed, for a time at least, to
secure the least confidence or respect. * * *

Though quite ill on arriving at Managua, I sought an early
interview with Mr. Castillon. In this private and informal meet-
ing, he laid much stress on the allegation that the honor of the
United States had been compromised during the mission of Mr.
Squier, when the Nicaraguans were induced to forego an oppor-
tunity for more favorable terms in regard to a canal with com-
mercial men in England. I could only answer, that the gov-
ernment of the United States had nothing to do with the
actual construction of such a work, that being reserved for
the individuals incorporated for the purpose by his own
State; while Mr. Squire's instructions merely authorized his good
offices in facilitating, on all proper occasions, so grand an object.
Though resentment for wrongs, alleged to have been perpetrated by
England at this very juncture, was the prevailing sentiment, yet he
intimated a charge of inconsistency in then entering the market
against her, though we were now combining with that power against
the rights of Nicaragua. His favorite idea was a guarantee from both
powers, that the canal should be successfully prosecuted, else there
might be an unqualified abandonment of just claims without equiv-
alent. With himself the question was, in fact, a mere matter of dol-
lars and cents—the general good of the world being a mere feather
in the balance against any violation of the eminent domain of Nica-
ragua in Mosquito or Guanacaste. Of course I could not but see that
they had no disposition whatever to entertain the propositions made
by the United States and England, and the decided negative in the
letter of the 20th instant did not surprise me.

After being able to point to this spirited course towards the American chargé, they may now give the matter a new phase in the reply to Mr. Wyke; there will be nothing really definite, but they may hit on some plan to gain time, till an answer from Mr. Marcoleta may be received. A dispatch, as I ascertained yesterday, was sent off to him at Washington. The papers, though recommendatory and advisory, I must from the closing paragraph, regard as an ultimatum from Mr. Crampton and yourself. It will be my duty, therefore, to relieve you from embarrassment in any immediate action you may contemplate, by refusing to receive, officially, all evasive matter, however cunningly prepared for the nonce. * * *

I have the honor to remain, with high respect and regard,

JOHN BOSMAN KERR.

[INCLOSURE NO. 1.]

(Mr. Walsh to Mr. Kerr.)

SAN JOSÉ, June 28, 1852.

SIR: I have the pleasure to inform you that the government of Costa Rica has given its full assent to the proposed treaty, as you will see by the enclosed paper. The English consul general and myself will leave here in a few days for Nicaragua, embarking at Punta Arenas for either San Juan del Sur or Realejo. I trust that the Nicaraguan government has manifested a willingness to accept the propositions, and that I shall be able to proceed at once to Greytown to embark in the steamer of the 15th of July, in which case I shall, in all probability, reach Washington before the dissolution of Congress.

I have the honor to be, sir, with great respect, your obedient servant,

ROBERT M. WALSH.

[INCLOSURE NO. 2.]

(Mr. Walsh to Mr. Kerr.)

GRANADA, July 22, 1852.

SIR: I have just arrived in this place, not being very well, and having nothing to do in Nicaragua but to get any dispatches which you may wish to send to Washington, I propose to remain here until the first of next month for the purpose of taking whatever you may have to transmit. I cannot remain longer than that time as my instructions require me to return before the dissolution of Congress, which in all probability will take place some time in

August. Hoping to hear soon that you have been successful in your negotiations with the Nicaraguan government,

I have the honor to remain, with great respect, your obedient servant,
R. M. WALSH.

[INCLOSURE NO. 3.]

(Mr. Kerr to Mr. Walsh.)

MANAGUA, July 24, 1852.

MY DEAR SIR: A special courier has just arrived from Realejo, and on Monday afternoon Mr. Wyke will be in Managua, when we may renew the attempt to bring about a better understanding with the government in regard to the various points embraced in the recommendatory paper of the representatives of the United States and England forwarded to me at Leon.

Having pressed the matter in every way personally, it is my intention to have a joint appeal on the arrival of Mr. Wyke, and the session of the chamber, having been prolonged by a decree of yesterday, something may possibly be effected. I have very little hope, however, after so decided a stand from the first on the part of Mr. Castillon. Mr. Pinedo, the director, was once a commissioner in this boundary controversy with Costa Rica, and the minister of foreign affairs obtained much of his reputation from his polemic writings in England against Lord Palmerston on these identical points.

Had a commissioner of Costa Rica accompanied you, I have some slight faith in the idea that a renewal on his part of the equivalents actually offered for a cession of Guanacaste years ago might have opened a postern of escape to Nicaraguan pride and obstinacy. This subject has always made capital for one or the other of the factions at work in the State—just now very unsettled, as there are vague apprehensions of fresh disturbances in November on the approach of the election for director.

It is out of my power to leave here in the morning, as I proposed, in order to have a conference with you at Granada, and I regret it the more as the sons might thus have reciprocated the friendly feelings subsisting for thirty years between the fathers. From some expressions of Mr. Lawless yesterday, I fear I should have missed you at Granada, as the steamer he said was in the offing merely waiting for you. The neglect of Mr. Wyke in such case, who has advised me of his coming on Monday by special courier, would have been inexcusable, and I am constrained to remain here.

I have had the decree copied, refusing to accede to the basis of settlement, but I should like to have had time for copying out the letter of Mr. Castillon

before forwarding it. It is somewhat piquant; and the whole subject had unfortunately to be presented by me just at a moment when there was much of spleen at the scandalous conduct (as the protest to me terms it) of the Americans at San Juan del Norte and Castillo Viego. I am making up a package for Washington which will be sent by the next steamer.

I remain, my dear sir, very respectfully and truly yours,

J. B. KERR.

[INCLOSURE No. 4.]

(Mr. Walsh to Mr. Kerr.)

GREYHORN, May 27, 1852.

SIR: I have the honor to forward to you a package from the Department of State, which I trust will speedily reach you. I arrived here yesterday in the United States steamer *Saranac*, in company with the new British consul general for Central America, Mr. Wyke. We proceed at once to San José, Costa Rica, for the purpose of persuading the government of that country to accede to the views of England and the United States in regard to the affairs of this region. Thence we go to the capital of Nicaragua, where I hope to have the pleasure of meeting you, and learning that no opposition has been made to these views by the Nicaraguans. It is necessary for me to return to Washington in July, so that I would take the liberty of begging to have everything arranged, if possible, by the beginning of that month. The proposed treaty appears to be so favorable to Nicaragua, that I presume little objection will be made to it there.

I am, sir, with great respect, your obedient servant.

ROBERT M. WALSH,

Special Envoy to Costa Rica.

[INCLOSURE No. 5.]

(Mr. Kerr to Mr. Castillon.)

LEGATION OF THE UNITED STATES OF AMERICA,

LEON DE NICARAGUA, June 23, 1852.

SIR: The commercial advantages in the construction of an inter-oceanic canal over this isthmus, so long an object of interest to the world, have given occasion to renewed efforts on the part of the governments of the United States of America and Great Britain, which the accompanying paper will better explain in full detail.

So long as the boundary question between Nicaragua and Costa Rica remains in litigation, (liable, after years of fruitless negotiations, to the final arbitrament of the sword) it is not to be expected that prudent capitalists will be ready to advance the necessary millions for the commencement and prosecution of such a work.

The claim of Costa Rica, in regard to a full and entire participation in steam power on the lake and river, has been met in a way to leave exclusive control over these waters with Nicaragua, and the cession of Guanacaste, as advised and recommended, would seem only to be in exact accordance with the will and wishes of the inhabitants of the district, unequivocally expressed during recent years. In truth, its possession, with so much of lukewarmness among the actual residents, would render it a nucleus for disaffection in Nicaragua, and even as a free gift, worthy of rejection. Besides, under the recent report of Colonel Childs, the accomplished engineer in the service of the Atlantic and Pacific Ship Canal Company, Salines bay has ceased to be of importance as the possible terminus of the canal. The most eligible spot has been designated by him at a port always within the acknowledged limits of Nicaragua.

The position taken by the English government, in the forcible expulsion of Nicaragua authority at San Juan, must be presumed to have been satisfactory to that power, and hence, in any arrangement, the alleged rights of the Mosquito Indians would naturally have a prominent place. In allowing a portion of territory to these native tribes, within which they may without molestation pursue their nomadic life, the government of Nicaragua is not urged to any course inconsistent with national honor and dignity. It is precisely thus that the United States government has dealt with a similar race within its limits.

I abstain from going more at large into these questions, so long a barrier to peace and progress in Central America, as I am fortunate in now signifying to the government of Nicaragua this evidence of good will, through the medium of a gentleman of enlarged views and practical experience, from whom an attentive and liberal consideration may be anticipated.

The legislature and executive have now in their own hands the extinguishment of all causes of external discord, and with prudence and moderation the Nicaraguan flag may soon wave at the mouth of the San Juan in token of possession and sovereignty. The completion of the canal under the auspices of Nicaragua will eventually outweigh a hundred fold the equivalents proposed in this recommendatory paper, which I have now the honor to enclose.

The decision of Costa Rica may be looked for in a few days, and I would ask the immediate and serious attention of the Nicaraguan government for the present propositions. In a week or ten days Mr. Walsh, a special agent of the United States to Costa Rica, in company with the British consul general for Central America, Mr. Wyke, will have reached Managua from San José,

and in case of a favorable hearing measures may at once be taken for a quadripartite treaty to be submitted to the Senate of the United States before its adjournment to the next session. Mr. Walsh is ordered to return to Washington immediately.

I propose to be in Managua in a day or two, when we may confer in perfect frankness together, and in the meantime I beg that you will accept the assurances with which I have the honor to be, sir, your obedient servant,

JOHN B. KERR.

[INCLOSURE No. 6.]

(Mr. Kerr to Mr. Castillon.)

LEGATION OF THE UNITED STATES OF AMERICA,
MANAGUA, July 13, 1852.

SIR: In my communication of the 23d ultimo I ventured to press upon the early action of the supreme government of Nicaragua a basis of settlement for certain long pending questions, offering, to this day, almost insuperable obstacles to the commencement and progress of a canal over the isthmus.

Some definite arrangement has become indispensably necessary, and it would give me much pleasure to know that the overture just made has been met in the true spirit of conciliation that prompted it.

Since communicating that paper I have been advised that future complications may be avoided in regard to grants of land within the Mosquito territory, by inserting towards the close of article I, after the words "in that part of the territory hereby ceded to Nicaragua," the following: which grants shall have been attended with residence on or possession of the lands granted. Again it might be advisable in the same article to strike out after the words "interfere with," the following: "Other legal grants made previously to that date by Spain, by the Central American confederations or by Nicaragua."

To article III add the following: But it is understood that nothing in this article contained shall prevent the republic of Costa Rica from resuming its rights to navigate the said rivers and lake by steam vessels, when the charters of the Atlantic and Pacific Ship Canal Company and Accessory Transit Company shall either have expired by their own limitation or shall have been legally forfeited.

Permit me to acknowledge the receipt of your communications of the 6th instant, and the moment I can procure reliable information in regard to Mr. Wiener's alleged claims under the Accessory Transit Company I may be able to place his conduct in a more favorable light.

I arrived at San Juan del Norte in July, eighteen hundred and fifty-one, and this declaration of rights to which your protest alludes had even then been

made by resident foreigners in charge of the municipal authority of the place. The best answer I have will be found in the paper which I have already submitted. The government of the United States would gladly see that important point in the hands and under the flag of Nicaragua.

I have the honor to remain, with much respect, your obedient servant,

J. B. KERR.

[INCLOSURE NO. 7.]

[*Translation.*]

HOUSE OF GOVERNMENT,
MANAGUA, July 6, 1852.

By the department of state for foreign affairs, now in my charge, and by the order of the supreme government of this State, a formal protest was sent to your excellency against the acts of usurpation being committed in the old castle, and the destruction of those historical monuments which Nicaragua had preserved as unequivocal evidence of the supreme dominion which it had and now has over that territory, from very remote times.

A protest likewise and denouncement was made before your excellency against the plundering conduct of certain Americans, who, in connexion with those of other nations, have made of San Juan del Norte a Hanseatic city, making a regulation or constitution, establishing authorities, and exercising acts of sovereignty and independence of that which Nicaragua has proclaimed in her constitution.

Although your excellency has not replied to the above mentioned communication, to-day the government learns by divers ways, and from certain testimony, that not only did not Mr. Weiner suspend the erection of the building for a hotel, which he has established in the castle, in opposition to the prohibition intimated to him by the agent by order of government, but that others have built various other edifices on the platform of the fort, the builders taking the bricks and other materials therefrom, that they have thrown down the earth on which the castle is built, and will probably cause thereby the destruction of that fortress.

And finally, the documents, an authentic copy of which I now have the honor to enclose to your excellency, will show that every day the independence and liberty of the country is threatened by the introduction of arms and the elements of war, in express violation of pre-existing laws, and of the stipulation of the 14th article of the contract of 22d of September, 1849, celebrated with the company for the inter-oceanic canal, and which is declared valid by the convention of 20th of August last year.

My government, in entering into the aforesaid arrangement, had in view to

bind itself with the United States and its citizens by the strongest bonds of friendship, thereby obtaining, by means of civilization, its more rapid progress and social advancement; it never could suspect that from its sincerity and benevolence that it would be threatened with the sacrifice of its most vital rights, and that it would see itself compromitted so far as to be thrust into a series of consequences so truly lamentable as those which must result from a violation or usurpation of its territory by individuals.

Wherefore, without prejudicing the right to take any other steps that may be considered necessary for the faithful enforcement of the laws confided to him, and to maintain the integrity of its territory and the sovereignty of the State the supreme director has directed to me an order to protest anew against aggression committed on this State by individuals, or companies, from the United States, for the serious and disagreeable consequences resulting therefrom, and for the damages and expenses that may be caused to its citizens, or to its foreigners residents.

The director cherishes the hope that the conduct of your excellency, always conciliatory, and the enlightenment and principles which you have professed since your residence in the country, will smooth all difficulties and obviate every act which might tend to humiliate the rights and privileges of Nicaragua.

Be pleased, excellent sir, to receive the present protest, and if you think best, to call to it the attention of your government, that such a course may be taken as may be deemed most proper, and at the same time to accept the assurance of the high esteem and respect with which I have the honor to be your faithful servant, &c., &c.

FRANCISCO CASTILLON.

Hon JOHN B. KERR,

Chargé d'affaires of the United States near Nicaragua.

[INCLOSURE NO. 8.]

(*Translation.*)

GOVERNMENT HOUSE,

MANAGUA, June 25, 1852.

SIR: The esteemed official note of your excellency, of 23d instant, is received, as also the accompanying copy of a treaty agreed upon by the government of your excellency and that of her Majesty, the queen of Great Britain, with the object of regulating the differences which exist between Nicaragua and Costa Rica, in relation to their territorial limits.

My government, to which I gave notice of their reception, is informing itself in relation to the subject matter therein referred to, so as to be enabled to reply to your excellency in such manner as the interest, honor, and dignity of the State shall require in an affair in which its rights may be so sensibly affected.

Opportunely I will communicate to your excellency the resolution of my government, and in the meantime I have the honor to be, with all consideration, the attentive servant of your excellency,

FRANCISCO CASTILLON.

Hon. J. BOZMAN KERR,
Chargé d'Affaires in Nicaragua.

[INCLOSURE NO. 9.]

(Mr. Castillon to Mr. Kerr.)

[*Translation.*]

HOUSE OF GOVERNMENT,
MANAGUA, July 20, 1852.

HONORABLE SIR: Conformably with my promise made to your excellency in my dispatch of 26th June last, my government has examined the stipulations agreed upon between his excellency the Secretary of State of the United States and his excellency the envoy minister plenipotentiary of Great Britain in Washington, on the 30th of April of this present year, for the settlement of the territorial questions between Nicaragua, Costa Rica and Mosquito.

My government comprehending the importance and consequence of this business, and not finding itself invested with the requisite power to resolve within itself the important questions involved in the aforesaid stipulations, has found itself under the obligation to transmit it to the legation chambers for such action as might be judged proper. The chambers having thereupon the subject under consideration, and inspired not only by the confidence which they have in the justice of the cause of Nicaragua, whose rights they believe to be greatly affected, but also in the enlightenment and moderation of the principles of the governments of Great Britain and the United States, and of the guarantees granted by international law in favor of all States, thought proper to refuse their acceptance of the aforesaid stipulations; at the same time, in the name of Nicaragua, a disposition to submit to an impartial arbitration of the questions in dispute, referred to in said stipulations, as your excellency will perceive in the decree, an authenticated copy of which accompanied this.

My government, therefore, in conformity with said decree, has directed me to manifest to your excellency that with all deference for the governments referred to above, the American Union and Great Britain, as far as reconcilable with the honor and dignity of the State, finds itself in the painful situation of not being able to accede to the proposed stipulations; at the same time it has a high appreciation of the friendly offices and sentiments which your excellency has expressed, in their

name, in communicating the reflections with the character of recommendations for the consideration of the governments of Nicaragua and Costa Rica.

Your excellency will see in this declaration that, although my government does not accede to the articles of agreement submitted to it, it evinces itself, nevertheless, no less disposed to cultivate with the governments of the United States and Great Britain the relations of friendship and good correspondence, now happily existing, and which tend to peace and the general good.

God grant that a similar disposition may be preserved by the two governments aforesaid; and that duly appreciating the sentiments of that of Nicaragua, they may be willing to interpose their friendly interference in order that the reasonable proposition for an impartial arbitration, suggested by Nicaragua, may be adopted by Costa Rica and Great Britain, so that the territorial question now under consideration may be harmoniously terminated.

As to the stipulation between Great Britain and the United States relating to the affairs of the Atlantic and Pacific Canal Company and accessory to the transit, and contained in articles 4th, 5th, 6th, and 7th of aforementioned stipulations, my government protests that it will not agree, as it has not agreed, to any regulation which shall in any manner alter the conditions of the primitive contract of the 22d September, 1849, the modifications of the 11th April, 1850, and of the agreement of the 19th August, 1851, which shall in all cases be the invariable rules for its conduct; that it will none the less refuse to accept any other arrangement which shall directly or indirectly jeopard the rights of Nicaragua either on its coasts, ports, rivers, or lake, or even in the canal and its dependencies, or in any point of its territory whose integrity may be desirable to preserve, notwithstanding that the said regulations should have been agreed upon by the aforesaid governments of the United States and Great Britain, or with any other power, unless there should be present on the part of this State a minister plenipotentiary and he concurring thereto; and not even then until the agreement of said minister has been previously ratified by the legislative power.

With the foregoing, which I hope your excellency will make known to your government, as I now request of you, I have, by order of my government, replied to your highly esteemed communications, dated on the 23d of June last, and on the 13th of the present month.

I have the honor to renew to the Hon. Mr. Kerr the assurances of my distinguished consideration and friendship.

FRAN. CASTILLON.

Hon. Mr. KERR,

Chargé d'Affaires of the U. S.

near the Government of Nicaragua.

[INCLOSURE NO. 10.]

(The Director of the State to its inhabitants.)

Inasmuch as the legislative assembly has decreed as follows: The senate and chamber of representatives of the State of Nicaragua in assembly constituted—

DECREE.

ART. 1. The State of Nicaragua does not accept the projet of agreement or recommendatory bases adjusted on the 30th of April last between his excellency Daniel Webster, Secretary of State of the United States, and his excellency John F. Crampton, envoy extraordinary and minister plenipotentiary of her Britannic Majesty in Washington, for the regulation of the territorial boundaries of Nicaragua and Costa Rica, and for the separation of the Mosquito coast.

ART. 2. The State of Nicaragua is disposed to an examination (ventilar) of the questions referred to in said bases by an impartial arbitrament.

ART. 3. The State of Nicaragua solemnly protests against all foreign interference in matters of her administration, and against the use of force to restrain her will and rights.

Done in the saloon of session of the chamber of representatives, Managua, July 14, 1852. Augustin Aviles, N. President; J. Joaquin Cuadra, R. Secretary; J. Mar. Bolaños, R. S.

To the EXECUTIVE.

Hall of senate, Santiago de Managua, July 16, 1852.—Miguel R. Morales, S. P.; J. Guerra, S. S.; José de Jesus Robleté, S. S.

Therefore let it be complied with.—Managua, July 19, 1852. J. Laureano Pineda.

To minister of foreign relations and government.

True copy:

CASTILLON.

MANAGUA, July 20, 1852.

[INCLOSURE NO. 11.]

(Mr. J. de la Rocha to Mr. Kerr.)

[*Translation.*]

HOUSE OF GOVERNMENT,

MANAGUA, May 8, 1852.

On the 19th of February last a communication, by order of the Director, was addressed to your excellency, denouncing the works commenced by certain Americans at the old castle—the destruction of its platform and the appropriation of the materials thereof and construction of edifices therewith, without even having the courtesy to advise with the supreme government and

the legitimate representative of the interests of the State to which belongs the ground and the works thereon erected, the antiquity and importance of which are self evident.

In your reply of the same date your excellency offered to make all possible efforts to prevent the destruction of the remains of the ancient fortress identified with the history of the country; you assured that if the transgressors were your fellow citizens they would promptly listen to a just representation against their illegal proceedings. The government, at a consultation held on the 24th December, year before last, having resolved to establish a preventive post of the customs at the aforesaid point, the old castle, being the most fit for the suppression of smuggling carried on in the State, and even in vessels belonging to the interoceanic company, directed the collector of customs at San Juan to make a reconnaissance of those works, and that he should order them to be suspended, for the government had properly understood that the execution of said works was nothing else but an abuse committed by some private speculators; but how great was the surprise of the Director to find among the documents with which he was furnished by the commissioners the act of cession made by the interoceanic canal company on the 17th of October, 1851. This surprise was increased by finding that the company assured to Mr. Wiener and his successors the absolute right of property in the ground, thus showing an evident determination to usurp in fact the territory of the State, reckless of its rights and without any consideration for its dignity, which demands a satisfaction and indemnity for the State. In order that the government should be informed of these transactions, and standing as it did by the act above cited, that the hotel ordered to be erected in the old castle would be under the direction and approval of the company, resolved to call upon Mr. John Doyle, the accredited agent of the company near this government, and when it expected a satisfactory reply was only told that the resolution of the company, in relation to the house of Mr. Wiener, having been anterior to his arrival in this country, he had written to his principals for information and instruction. In the meanwhile the government, vigilant in preserving the rights and privileges of the State, directed its subaltern agents to omit no important notification concerning ulterior steps in an affair in which was no less compromised the integrity of the territory than the independence and liberty of the country. In compliance therewith the functionaries of the occidental department have manifested to the government that the contractor at the old castle not only continued his first work, but that he had formed a parapet on the ground and mounted a piece of artillery; that he has thrown down the earth and thrown broken bottles into the water at the landing for the purpose of preventing the landing of our canoes, and that many of our sailors who were obliged to work at this place, stuck full of these articles artificially arranged, were thereby wounded; that a public sale of liquors, (a monopoly of the State,) was established. In addition to these, and by a rare coincidence, the Eng-

lish authorities established in San Juan del Norte having withdrawn from that point, and the American residents there, with other foreigners, have declared the territory independent of Nicaragua, made a constitution, by popular election chosen a mayor, and established a tribunal of justice; that is to have consummated an overt act of usurpation, occupying in fact the most interesting part of the territory of the State in opposition to the stipulations agreed upon between the enlightened government of the United States and that of Great Britain, on the 19th of ———, 1850, and contrary to the hopes which Nicaragua had conceived as much from the magnanimity of the American government, as from the generosity with which it, Nicaragua, had offered the advantages of its position to the fallen citizens of your excellency. The intention was truly foreshadowed even in the newspapers of the United States. In the *Herald* of 30th of March, year before last, which your excellency has probably read, alluding to the restitution of above mentioned port (San Juan del Norte) to the dominion of Nicaragua, are the following words, without any attempt at concealment: "With the slightest pretext we will drive out, without much ceremony, its officers, for we are no more favorably disposed to the cause of Nicaragua than we are to the Anglo-Mosquito flag."

The impatience to arrive at this end was such that they anticipated all faction, and the most scandalous separation was effected; scandalous for the great indignity and serious offence given to a friendly nation; scandalous for the violence which was committed on international law, without any motive whatever from Nicaragua, without pretext which would authorize it, and without permission from the supreme authority, which, in the name of the State, holds in that territory the eminent dominion; scandalous, finally, for the active part taken in it by the individuals of that nation which is probably the most favored in Nicaragua.

The supreme government of the State, so far from believing that the United States have acquiesced or concurred therein, has instructed its plenipotentiary to that government to make a proper claim for the offence which Nicaragua has received by these acts committed by citizens of that republic. But while, in the meantime, that the enlightened government of the American people is taking cognizance of and determining in relation thereto, the silence of the government of Nicaragua might be interpreted as a renouncement of its rights, or as a toleration of the same, it has expressly directed me to address to your excellency the present communication, protesting, through me, that now, nor at any time whatever, has Nicaragua renounced her rights of proprietorship and present dominion over the port of San Juan, the old castle, and adjacent territories, no matter what may be the consideration and political existence with which it may be designed to invest the act of usurpation; that Nicaragua will make proclamation of her rights in all the civilized nations of the world, before whose

tribunals her rights will be vindicated, notwithstanding her debility, in opposition to the strength with which she is threatened and cannot resist. I am furthermore directed to make manifest to your excellency the hope that even now inspires it of your excellency's mediation, and, from your reconciliatory character, that you will be enabled to arrange the differences to which I have above referred without any grave and serious results, and without any interruption of the friendly relations of both countries.

With this inducement, I have the peculiar satisfaction of renewing to your excellency, with the utmost sincerity, the offering of friendship and esteem with which I sign myself your humble servant,

JESUS DE LA ROCHA.

True copy. MANAGUA, July 28, 1852.

The CHARGÉ D'AFFAIRES,
Of the United States of America.

[INCLOSURE No. 12.]

(Mr. Calvo, minister of foreign affairs of Costa Rica, to Mr. R. M. Walsh, special envoy.)

[*Translation.*]

NATIONAL PALACE, San José, June 25, 1852.

SIR: It is very acceptable and satisfactory to the undersigned to be able to place in the hands of Mr. Walsh an authenticated exemplification of the decree which the president of the republic, with full authorization on the part of the national representatives, have promulgated on the 23d instant, confirming and ratifying the assent and adhesion of Costa Rica to the bases signed at Washington on the 30th of April of the present year, for an agreement, which gives as its result the definitive and friendly determination of the question of territorial limits pending between this republic and that of Nicaragua, and removes the difficulties which might embarrass the prompt projected construction of the interoceanic canal.

The government, convinced of the stringent necessity and convenience of maintaining, without change, the fraternal relations which happily exist between Costa Rica and Nicaragua, and that every source of disagreement which might affect the two countries should be removed, has considered this matter with the greatest interest, giving to it the preference which its importance demanded, subscribing, after mature deliberation, to the bases indicated, in testimony of its adhesion to the conservative principle of all communities, which is universal peace.

But not this alone has determined the government to accept the bases referred to. It is a desire to contribute, on its part, to the well-being of the human race; it is the hope that it will positively improve the condition of Costa Rica and Nicaragua, by the achievement of that great work the interoceanic canal; it is the supreme confidence which it places in the greatest maritime powers of Europe and America which take such interest in the future of these regions; it is, in fine, the sincere respect with which it contemplates the high intermediation of these governments in affairs which, perhaps, might present in the future serious results, contrary to the peace and security of peoples who are brothers and neighbors. Therefore, this government is much gratified that an occasion like the present has provided the means to express the conformity of its sentiments with those of the United States and Great Britain, in the important matter which they have treated, and offers its fervent wishes that the conclusion may have the happy result which is to be desired.

The undersigned avails of this occasion to signify afresh to Mr. Walsh that he is, with expressions of true friendship and sympathy, his obedient humble servant,

JQ. BERN. CALVO.

[INCLOSURE NO. 13.]

[*Translation.*]

(Juan Rafael Mora, President of the Republic of Costa Rica in Central America.)

Whereas, Mr. R. M. Walsh, special envoy of the government of the United States of North America, and Mr. Charles L. Wyke, counsel general of her Britannic Majesty, have presented to this government the bases agreed upon in Washington by the governments of the United States and Great Britain, on the 30th April last, for a definitive settlement of the questions of territorial limits pending between this republic and the State of Nicaragua, and other important subjects, which bases, translated into Spanish, article by article, read as follows :

* * * * *

[Here follow the Webster and Crampton bases.]

Whereas, upon consideration of the hereinbefore recited bases, this department on the 16th instant adopted the following resolution:

NATIONAL PALACE,

SAN JOSÉ, ——— 16, 1852.

Having read and examined the convention signed at Washington on the 30th of April of the present year by the representatives of the governments of Great

Britain and the United States, the purport of which convention is to propose bases for an accommodation between the republic of Costa Rica and the State of Nicaragua of the question of territorial limits, and at the same time defining in said bases other points relating to the Mosquito territory and Atlantic and Pacific interoceanic canal, having had several conferences of the ministry of foreign affairs of this government with Mr. R. M. Walsh, special envoy of the government of the United States, and Mr. C. L. Wyke, consul general of her Britannic Majesty, and considering that, although one of the northern boundaries of the territory of the republic has been and is, by the constitution, and by various existing authentic documents, the place at which the river San Juan empties itself into the Atlantic ocean, and notwithstanding that the republic was not consulted on the occasion of closing the agreements which have been made for the great work of the interoceanic canal across the isthmus, nor that the independence of Costa Rica is not directly affected by the Mosquito question, yet in deference to the respected mediations of the governments of the maritime powers of Great Britain and of the United States of North America, to the great interests of all the commercial nations of Europe and America in the construction of the interoceanic canal, and to the desire to terminate pacifically and amicably with our neighbor, the State of Nicaragua, the pending territorial questions, the executive power of the Republic of Costa Rica, in Central America, assents, adheres, and subscribes to the bases agreed upon at Washington on the 30th of April last, and contained in seven articles, which have been presented to this government by Mr. Robert M. Walsh, envoy of the United States, and Mr. C. L. Wyke, counsel general of her Britannic Majesty, specially empowered for this purpose; and on fitting occasion the republic will concur in framing the definitive treaty which is to be made upon the bases. Let this resolution be communicated to the most excellent legislative authority, that it may be approved if judged proper, and notified to Messrs. Walsh and Wyke, for their information.

JUAN RAFAEL MORA,
Minister of State, Department of Foreign Relations.

JOAQUIN BERNARDO CALVO.

And whereas, the decree No. 10, of yesterday, has been received from the most excellent the legislative authority, which says:

No. 10. Juan Rafael Mora, president of the republic of Costa Rica.

Whereas, The most excellent constitutional congress has decreed what follows:

The most excellent constitutional congress of the republic of Costa Rica having before it the bases agreed upon at Washington by the ministers of the two great powers, Great Britain and the United States of the north, on the question of territorial limits which is pending between the State

of Nicaragua and the republic of Costa Rica, and in view of the approval accorded to them by the Supreme executive power,

DECREES:

Article 1st and only one.—Approval is given to the assent, adhesion and subscription which the supreme government of the republic has accorded, under date of the 16th instant, to the bases agreed upon at Washington on the 30th of April last, between the representatives of the governments of Great Britain and the United States, for an accommodation between the republic of Costa Rica and the State of Nicaragua on the question of territorial limits pending between both countries.

To the EXECUTIVE POWER.

Given at the palace of the supreme authorities of San José, the twenty-second day of June, 1852. Miguel Mora, vice president. Brumio Carranza, secretary. Jose Maria Garcia, secretary.

Therefore, let it be executed. National palace, San José, June 23, 1852. Juan Rafael Mora, minister of state, office of executive administration, Joaquin Bernardo Calvo.

Wherefore, I have deemed good to approve, confirm and ratify, and by these presents do approve, confirm and ratify the enunciated bases consisting of seven articles, and signed at Washington the 30th day of April in this instant year, by Daniel Webster, Secretary of State of the United States, and John F. Crampton, envoy extraordinary and minister plenipotentiary of her Britannic Majesty; also approving, confirming and ratifying by these presents the resolution of this government of the 16th of this present month, and in virtue thereof the republic of Costa Rica will fulfil and observe all that concerns her in respect of the expressed bases of the resolution mentioned.

In testimony whereof, I have caused these presents to be done in triplicate, signed with hand, sealed with the great seal of the republic, and countersigned by the secretary of state of the department for foreign affairs on the 23d day of the month of June, 1852.

JUAN R. MORA. [L. s.]

JOAQUIN BERNARDO CALVO,

El Ministro de Estado en el

Depacho de Relaciones Exteriores.

[The above letter and inclosures appear as Document 42, Inclosures 1-13, in Special Message of President, 14th February, 1856, pp. 93-109.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

30th July, 1852.

(Mr. Kerr to Mr. Mr. Webster.)

[*Extracts.*]

[No 11.] LEGATION OF THE UNITED STATES OF AMERICA,
MANAGUA, July 30, 1852.

SIR : On closing my dispatch of the 28th instant, and just as I was in the act of paying him a visit at Granada, Mr. Walsh came up here. We have been now two days together, and, by a personal interview with the director and Mr. Castillon, he will have detected under what complications the government here is disposed to embarrass the subject of a settlement with Costa Rica, and all regulations touching the future disposition of the Mosquito coast. They have most certainly hardened their hearts with more than Egyptian stubbornness against every attempt on the part of the United States government to lead them otherwise than their pride suggests.

That which I mentioned on Wednesday, as a probable thing, has actually occurred. Mr. Wyke last evening had a reply to his communication, and, by way of set-off to the proposed bases of settlement at Washington, he received a series of articles as modifications, duly drawn in strict adherence to their ancient claims and pretensions. These Mr. Castillon sent also to me in a special communication. My reply of this morning is submitted for your examination, and all the papers have been copied for this dispatch. * * *

With sincere respect and regard, your obedient servant,

J. B. KERR.

— — —
[INCLOSURE No. 1.]

[*Translation.*]

(Mr. Castillon to Mr. Kerr.)

GOVERNMENT HOUSE, July 29, 1852.

HONORABLE SIR : Charles Lennox Wyke, consul general of her Britannic Majesty, has presented the bases agreed upon at Washington for the adjustment of the territorial questions between Costa Rica and Nicaragua, which your excellency was pleased to recommend to the attention of my government, inciting it, notwithstanding my reply to your excellency of the 20th instant, to take

into its consideration this business, and to select some other medium through which to put a speedy and friendly termination to the differences.

My government, abounding in the same wishes and philanthropic sentiments as the American Union and Great Britain has not been able to do less than comply with the friendly invitation of Mr. Wyke, and having entered into a new examination of the aforementioned bases, analysed its articles and meditated maturely on each one of them, guided by the spirit of good faith and honesty which forms the distinguishing feature of its character, has instructed me to say to the aforementioned consul, notwithstanding its having declared the disposition of the State to terminate these questions by means of an impartial arbitrament, it might accede to the proposed basis, if it were possible to adopt certain modifications which I have the honor to enclose to your excellency, supplicating, at the same time if you should think it proper, to be pleased to submit them, with your recommendation, to the consideration of your government for the purposes that they may give rise to.

My government, with the expectation that they will meet with a favorable reception, has instructed its minister plenipotentiary in Washington to confer with the ministers of great Britain and the United States in relation to the points embraced in said modifications, without prejudice of the arbitrament referred to in the decree of the chambers, which I communicated to your excellency in my aforesaid communication of 20th instant, in the case that the said modifications should not be accepted as is desired.

Accept, &c.,

FRANCISCO CASTILLON.

Hon. Mr. KERR,

Chargé d'Affaires of the United States.

[INCLOSURE No. 2.]

[*Translation.*]

Modifications with which the basis established at Washington on the 30th of April, for the arrangements of the questions concerning territorial boundaries may be made acceptable to Nicaragua.

ARTICLE I. The Mosquito Indians and the territory bearing the same name are incorporated and united forever with Nicaragua in which they shall enjoy the same rights, and will be subject to the same obligations as the other inhabitants of that State and in the terms established in its fundamental charter. Said territory shall be considered as a department of the State, and as such shall contribute with its respective representatives and senators to the legislative chambers, in the form and in the ratio which shall be determined by a special law; consequently commerce between that territory and the other

towns of the State shall be entirely free and untrammelled, as in the ports, rivers and lakes and in the respective portions of territory for the navigation and transit of effects and carriages which shall obtain perfect security.

ARTICLE 2. Nicaragua nevertheless promises—

1st. To grant an indemnization for the edifices and improvements made in the port of San Juan, to the Mosquito Indians four per cent. of the nett products of said port for the space of five years, said sum to be paid annually at the custom-house of aforesaid port to the municipality which may be established there, in order that it may be applied to objects for the common benefit of said inhabitants.

2d. To assign an equitable pension to the cuzique or chief of the Mosquitoes during his life.

3d. To recognize and respect as lawful the grants of lands which, since the 1st of January, 1848, to the present time, have been made by the authorities of Mosquito territory, with the exception of those grants which may be opposed to those which were formerly made by the Spanish government, by the federal government of Central America, or by that of Nicaragua, or that may be contrary to the privileges or operations of the Atlantic-Pacific Canal Company and accessory to the transit or even if such grants be at those points which the State may require for forts, arsenals, or other public buildings, which points must remain at the disposal of the State itself.

ARTICLE 3. The port shall be denominated hereafter San Juan de Nicaragua, and the public municipal authority shall be exercised in the name of the State, the same as in all the rest of the territory united and incorporated within it in virtue of the present treaty.

ARTICLE 4. The limits of the territory of Nicaragua on the side of Costa Rica shall be those which comprised anciently the province of Nicaragua from the river Salto on the Pacific, and stretching a diagonal line to the river Parismina on the Atlantic. Both States shall, within one year from the ratification of this treaty, appoint one commissioner and one surveyor for each one of said States, in order that they may make a reconnaissance of the ground and proceed to a demarkation of the boundary conformably with this stipulation. The said commissioners shall take the necessary observations to make a special map of the dividing line, which (said map) shall be an integral part of this treaty, and shall have the same force as if it were inserted in it, giving to each party the copies that may be desired, to be signed by all, so that if hereafter any dispute should arise from any infraction thereof, in which event it shall be considered authentic and shall be held as full proof; and in order that in this operation there may not be the slightest difficulty, said commissioners shall give names, by common consent, to the rivers and woods which have none, and shall distinguish them on the map with all minuteness, and shall erect with stone and mortar, in the proper places, corners or

marks; but it is stipulated that the navigation for the entire course of the rivers which may be within the limits of Nicaragua, from that point at which each one commences to be navigable to its mouth, as likewise that of the lake or lakes and navigable waters, shall be entirely free and common to the citizens of both States without any restriction or special condition which may favor the one more than the other, it being well understood that the citizens of Costa Rica shall be bound as well as those of Nicaragua to the only limitation established in the 23d article of the contract celebrated with the company of White on the 22d September, 1849, and that all will have to conform to the rules concerning the government of the navigation and other laws of the State.

The State of Costa Rica shall enjoy—

1st. Entire exemption from payment of introduction duties, for the space of ten years, in the port of San Juan del Norte.

2d. Absolute exemption, forever, from duties on the exportation of her products, manufactures, &c.

3d. Like liberty and exemption from duties in the navigation of the Sarapiquí, with an obligation on the part of said Costa Rica to make, at its expense, to render it navigable, and preserve it in that state, in the State in which it may be after the execution of said works.

4th. To establish at that point in said river where it joins the San Juan, or in any other point which it may deem convenient, edifices for custom-house stores or warehouses, and for the situating of custom-house officers.

5th. Power or liberty for its citizens to hold warehouses in San Juan for depositing their merchandise, which they may import for the interior of its territory, for the space of fifteen years. All the foregoing points shall be regulated by a special convention.

ARTICLE 5. The State of Nicaragua, with a view to facilitate the execution of the great interoceanic canal, in the terms stipulated by the contract on the 22d September, 1849, binds itself by these presents not to construct, nor permit to be constructed, any mole, wall, or place of embarkation, or any other work whatever, which may embarrass the works of the canal, or the navigation or entrance to the ports, rivers, or lakes, where said work may be executed. It is well understood that the exclusive privilege granted to the company accessory to the transit, and the authorizations which is given to it in the 1st article of the agreement of the 19th August, 1851, is not to exceed the limits and objects designated in the 30th article of the primitive contract, of 22d September, 1849, which is to promote the prompt execution of the canal, and for, in case that it should be impracticable, according to what has been declared to the company, said company being bound to submit strictly to said article 30th, conformably with the 9th of aforementioned agreement, of 19th of August.

ARTICLE 6. In case of the accomplishment, in whole or in part, of the projected interoceanic communication through the territory of Nicaragua, the flag of Great Britain and also of the United States, as well also as the merchandize and subjects of both said powers, shall enjoy, in the transit, the same advantages and exemptions which may be granted to the flag, merchandize, and subjects of the most favored nations; Nicaragua will regulate these points by means of the treaties of amity, alliance, and commerce, which it is disposed to make with the two high contracting powers; and they obligate themselves, on their part, to unite their efforts with those of the government of Nicaragua to guarantee the neutrality of this important route of interoceanic communication, for the purpose of protecting the sovereignty of the State and a free transit against all embargo or confiscation, and to secure the capital invested in the expenses for said work; which said guarantee is conditional; and with previous announcement thereof to the government of Nicaragua, can be retracted in the cases especially set forth in the fifth article of the agreement adopted in Washington by the ministers of Great Britain and the United States; and, for the purpose of fixing the distance within which vessels of all nations shall be exempt from blockade, detention, or capture, by any of the belligerent parties, it is declared by this, that it shall extend to all the waters comprehended within the distance of thirty nautical miles from low water mark, at the two extremities of said canal.

ARTICLE 7. It being desirable that time should not be unnecessarily lost in the commencement and construction of said canal, the governments of the United States and Great Britain and Nicaragua agree, by these presents, in case that the company to which has been conceded the privilege of carrying out the enterprize shall not accredit, within the space of one year from the date of the ratification of the present contract, that said company has subscribed a capital sufficient for the execution of the same, or of insuperable obstacles and difficulties of a nature to impede the work or the construction of a railroad, then there shall be no obligation on the part of Nicaragua to observe said contract, and the company shall lose the privilege the moment that any other company, disposed to commence and continue the construction of the canal, shall ask for it in the proper form. The government of Nicaragua, after having heard from those of the United States and Great Britain, will grant the privilege under such stipulations and conditions as may be most adapted to complete the great object.

ARTICLE 8. The company accomplishing the transit shall obtain the same protection agreed upon in the convention of April 19, 1850; and, in the present one, it shall be enjoyed by the Atlantic-Pacific Canal Company, always, however, on condition that it shall be limited to the purpose of promoting and facilitating the canal on the terms stipulated in article 30th of the primitive contract of September 22, 1849; the which shall be inviolably ob-

served in conformity with article 9th of the agreement of August 19, 1851. It is understood, however, that any other article of said agreement, which might alter it, shall be considered as null, of no value or effect, and the authority granted to the company, in virtue of article 8th, shall cease.

ARTICLE 9. The present convention shall be ratified by the contracting parties, and exchanged at Washington, within six months, to be counted from this date.

CASTILLON.

MANAGUA, July 29, 1852.

[INCLOSURE No. 3.]

(Mr. Kerr to Mr. Castillon.)

LEGATION OF THE UNITED STATES OF AMERICA,
MANAGUA, July 31, 1852.

SIR: You will remember that, in our informal meeting on the evening of the 8th instant, just after my arrival at Managua, an idea was thrown out of the existence of some documentary evidence upon which you felt authorized to base, on behalf of your government, complaints of a want of good faith in this recent *projet*, recommended as the result of the joint councils of the United States and Great Britain.

It was reiterated with marked emphasis yesterday, when I had through you the honor of presenting to his excellency the director the distinguished gentleman sent in behalf of the United States to Costa Rica, and now on his way to Washington.

I am just closing a dispatch to the Department of State, and you will oblige me very much by stating the circumstances under which any such documentary evidence could have had its origin at twelve o'clock to-day. This afternoon early I am to leave for Granada.

I remain, with high respect and consideration, your obedient servant,

JOHN B. KERR.

[INCLOSURE No. 4.]

(Mr. Kerr to Mr. Castillon.)

LEGATION OF THE UNITED STATES OF AMERICA,
MANAGUA, July 30, 1852.

The undersigned chargé d'affaires of the United States has the honor to acknowledge the receipt of the communication of the honorable Mr. Castillon,

minister of foreign relations in Nicaragua, just handed to him, with a request for the transmission to Washington of certain modifications of the basis of settlement between Nicaragua and Costa Rica, proposed by the joint councils of the United States and Great Britain.

It might prove a source of future embarrassment to all parties if the fact were disguised that the questions now at issue are no longer to be narrowed down to mere polemics, interminable from their very nature and past experience, and not at all calculated to allay the pride and prejudice of a quarter of a century in regard to the territorial limits between these conterminous States in Central America. No one can know better than the honorable Mr. Castillon how utterly groundless all hopes of conciliation and compromise must prove after abortive efforts so long at adjustment, under crimination and recrimination between these respective governments and people protecting the same holy religion and enjoying the same language and the same laws.

The paper which the undersigned had the honor to communicate from the city of Leon on the 23d ultimo, was advisory and recommendatory and the honest truth, never now at war with diplomatic etiquette is, that the commercial world, generally, is looking to the noble lake and waters of Nicaragua, for such a right of way as may be exercised in perfect harmony with the true dignity of this State under international rules and regulations. In regard to the impartial arbiter to which the decree of the honorable the senate and chamber of representatives refers, let the undersigned, in all sincerity, ask the honorable Mr. Castillon, where better and more assuredly could it be found than in the two greatest of maritime nations, whose words of advice and recommendation have just been set aside, though acting from no selfish purposes whatever, and in the name and behalf of the world at large.

The undersigned, in deference to the wishes of the Nicaragua government, expressed in the most solemn form known to her constitution, will at once forward the decree of the legislative body, negating the proposed arrangement, suggested for her onward progress, as also these modifications thus ripened and matured by the executive in virtue of his powers.

The undersigned must take the occasion, however, to express his earnest conviction that the latter paper, after so pointed a refusal by the legislative branch of the government, will not in the slightest degree stay any such prompt action by the government of the United States as may be needed to advance the great enterprise of inter-oceanic communication, to which it stands as one of the sponsors.

The views and feelings of another zealous and sincere sponsor, (so beautifully and eloquently expressed by the right honorable the Earl of Derby, as the British prime minister,) may not be out of place in the present connexion as essential, indeed, to disabuse the public mind here in Nicaragua of false impressions just now rife in regard to presumed changes in the policy of Eng-

land. On a very recent occasion this distinguished peer made the following reference to the condition of things on this isthmus:

“At this moment I may mention, as an illustration, that we are engaged with a great and powerful neighbor, whose military prowess all the world acknowledges, and of whose prowess we have ourselves had great experience,) not in those hostile armaments which have formerly deluged the world in blood, but we are engaged in a united effort, by united councils, in endeavoring by peaceful negotiations to extend, not for our own individual benefit, but for the benefit of the world at large, the sphere of peaceful commerce to the interior of the vast continent of America. Our plenipotentiaries are, indeed, different in person, but the instructions upon which they proceed, and the spirit by which they are animated, are essentially and unequivocally the same.”

Deeply sensible of the comity and kindness at all times extended to him, the undersigned renews to the honorable Mr. Castillon the assurances of his respect and most distinguished consideration.

JOHN BOZMAN KERR.

[*The above letter and inclosures appear as Document 43, Inclosures 1-4, in Special Message of President, 14th February, 1856, pp. 109-115.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

6th August, 1852.

(Mr. Molina to Mr. Hunter.)

LEGATION OF COSTA RICA,
NEW YORK, August 6, 1852.

SIR: I have the honor to accompany, herewith, a sealed dispatch from the minister for foreign relations of Costa Rica to the honorable Secretary of State of the United States, which I have been charged to deliver.

Official engagements in this city preventing my performing that duty personally without delay, I have been induced to employ the present channel, as the simplest manner to effect the early transmission of that communication.

In so doing, I am instructed to reiterate my government's confident hope that, in the final adjustment of the treaty to be signed between Costa Rica and Nicaragua, the governments of the United States and Great Britain will exercise their friendly influence to have such provisions inserted in it as may lessen the sacrifices and secure the interests of Costa Rica.

Accept the renewal of my highest regards, with which I remain,
sir, your most obedient humble servant,

F. MOLINA.

WILLIAM HUNTER, Esq.,
Acting Secretary of State, Washington.

[*The above letter appears as Document 44, in Special Message of President, 14th February, 1856, p. 116.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

12th August, 1852.

(Mr. Webster to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, August 12, 1852.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, accompanied by a sealed communication to this department from the Minister for Foreign Affairs of Costa Rica.

In reply, I have the honor to inform you, that your government may rely upon any friendly influence which it may be in the power of this government to exert, for the purpose of making the proposed convention with Nicaragua and Costa Rica acceptable to the latter.

I avail myself of this occasion, sir, to offer to you a renewed assurance of my very high consideration.

DANIEL WEBSTER.

Señor DON FELIPE MOLINA, &c., &c.

[*The above letter appears as Document 45, in Special Message of President, 14th February, 1856, p. 117.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol 6.

13th August, 1852.

(Mr. Lawrence to Mr. Webster.)

[No. 198.]

LEGATION OF THE UNITED STATES,
LONDON, August 13, 1852. (Received August 27.)

SIR: I have the honor to inclose a further correspondence between Lord Malmesbury and myself relative to Colonel Childs' report upon the ship-canal between the Atlantic and Pacific Oceans

by way of Lake Nicaragua. Lieutenant-Colonel Aldrich and Mr. Walker, the engineers appointed by Lord Malmesbury to examine the report made by Colonel Childs, have reported that the project in the line projected by Colonel Childs is practicable; that the survey made by him has every appearance of accuracy; that the works are generally sufficient for the purpose they are intended to answer; and that the estimates upon the present value of money are adequate. The British capitalists have the matter now under consideration. I have delayed sending you this correspondence, hoping to give you their decision with it.

I have, &c.,

ABBOTT LAWRENCE.

[INCLOSURE NO. 1.]

(Lord Malmesbury to Mr. Lawrence.)

[Immediate.]

FOREIGN OFFICE, July 16, 1852.

SIR : In compliance with the suggestion contained in your letter of the 16th ultimo, that engineers possessing well-known skill and experience should be appointed on the part of Her Majesty's Government to examine the report of Colonel Childs on the ship-canal to be constructed through the Nicaraguan territory, from the Atlantic to the Pacific Ocean, that report having been already examined and approved by Colonels Abert and Turnbull, two distinguished officers of the Topographical Engineers of the United States, I have the honor to inform you that Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, an eminent civil engineer, were accordingly requested by me to perform that duty.

Those gentlemen readily assented to that request, and I have now the honor to transmit to you their report, accompanied by four inclosures upon the papers submitted to their inspection, being the documents which were inclosed in your letter of the 21st of June.

I have, &c.,

MALMESBURY.

[INCLOSURE NO. 2.]

(Mr. Lawrence to Lord Malmesbury.)

LEGATION OF THE UNITED STATES,

138 PICCADILLY, July 17, 1852.

MY LORD : I have the honor to acknowledge the receipt of your lordship's letter of the 16th, inclosing the report of Lieutenant-Colonel Aldrich and Mr.

James Walker upon Colonel Childs' report on the ship-canal to be constructed through the Nicaraguan territory, from the Atlantic to the Pacific Ocean, and I beg your lordship to accept my thanks for the great promptness with which you have complied with my request in this matter.

I have, &c.,

ABBOTT LAWRENCE.

[INCLOSURE NO. 3.]

[*Extract.*]

(Report of the British Engineers upon the Report of Colonel Childs.)

From the foregoing premises and subject to our observations on particular works (especially as to Brito Harbour), *to which we beg to refer*, our opinion, with reference to the propositions contained in your letter to Mr. Walker, is—

1. That the project of a ship-canal from the Atlantic to the Pacific on a line projected by Colonel Childs is practicable, and would not be attended with engineering difficulties beyond what might be naturally expected in a work of this magnitude.

2. That the survey has every appearance of accuracy; that the details of specifications, working-drawings, &c., prepared under Colonel Childs' directions, by Mr. Fay, Mr. Fitzgerald, and others, have been got out with great care, and that Colonel Childs has impressed us with a conviction of perfect fairness and candor on his part.

3. That the works are generally sufficient for the purpose they are intended to answer.

4. That the estimates upon *the present value of money* are adequate, in a general way, as far as judgment can be formed of them from the documents produced and the explanations of Colonel Childs, which, as will be seen from his evidence, were particular and given in great detail.

We shall perhaps be considered as interpreting the word "*sufficiency*" in your instructions in a liberal sense, when we add, that to make the navigation 20 feet deep in place of 17 feet, and the locks 300 feet long in place of 250, and the canal 60 feet in place of 50 feet wide, would, in our opinion, be rendering the navigation more efficient for the general purposes of trade by steam and sailing vessels. Colonel Childs (see his answers to questions 223 and 224) does not see any difficulty in doing this, excepting the expense, which would, we think, be unimportant when compared with the advantages.

The great additional expense would be in the deep cutting west of the lake, two or three miles of which might be left of the smaller width, if present saving be a great object. We find that the original instructions to

Colonel Childs directed the estimates and surveys to be made for a canal of sufficient depth of water for vessels of the largest class; and if the junction of the Pacific with the Atlantic be worth doing at all, it is worth doing *well*.

JAMES WALKER,
Civil Engineer.

EDWARD ALDRICH,
Captain and Lieutenant-Colonel, Commander Royal
Engineers, London District.

LONDON, July 16, 1852.

[*The above letter and inclosures appear as Document 36, Inclosures 1-3, in Special Message of President, 29th July, 1882, pp. 98-99.*]

34th Congress, 1st Session.
Senate, Ex. Doc. No. 25.
In Vol. 10.

15th August, 1852.

(Mr. Walsh to Mr. Webster.)

NEW YORK, August 15, 1852.

SIR: I have the honor to inform you of my arrival here yesterday in the steamer *Northern Light* from Greytown. I am unable to proceed at once to Washington in consequence of illness. In Nicaragua I was attacked by fever, brought on by the unavoidable exposure and fatigue of travelling in that country, and am still suffering from it in a way that may render repose necessary for a few days. As soon as I can I will report myself to you personally.

With great respect, your obedient servant,

ROBERT M. WALSH.

HON. DANIEL WEBSTER,
Secretary of State.

[*The above letter appears as Document 46, in Special Message of President, 14th February, 1856, p. 117.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

2d September, 1852.

(No. 12.)

[*Extract.*]

(Mr. Kerr to Mr. Webster.)

LEGATION OF THE UNITED STATES OF AMERICA,
LEON DE NICARAGUA, September 2, 1852.

SIR: * * * My official note of the 31st of July, in the accompaniments to No. 11, has drawn a reply which must preclude any future reference to documentary or other evidence, by which it could be pretended that the honor of the United States had been compromised through pledges of protection to Nicaragua. Mr. Castillon dwelt with much earnestness on the existence of such evidence, and in Mr. Walsh's presence the like idea was subsequently reiterated by the minister of finance, Mr. Rocha, and echoed back by the director. Mr. Castillon, however, has thought proper to protest against such inferences from his expressions, or those of the director; and the government of the United States is officially absolved.

The *Guatemala Gazette*, to which I would call your attention, contains much balderdash from a recent member of the Nicaraguan legislature, evidently desirous of making capital for himself out of the Guanacaste question. It will serve as an index to the style of argument in regard to the basis of settlement recommended by Mr. Crampton and yourself.

Nothing definitive has been heard from the city of Tequziquilpa where the constituent national assembly is in session. A quorum was formed recently, after months of delay, and it is apparent that Honduras is the only one of the States which has no double dealing, under an affectation of zeal for nationality.

* * * * *

I have the honor to remain, with much respect and regard, your obedient servant,

JOHN BOZMAN KERR.

[INCLOSURE NO. 1.]

(Mr. Castillon to Mr. Kerr.)

[*Translation.*]

GOVERNMENT HOUSE,

MANAGUA, August 16, 1852.

SIR: The undersigned has the honor to reply to the official letter of the honorable Mr. Kerr, chargé d' affaires of the United States to Nicaragua, dated on the 31st of July now last.

The undersigned does not recollect to have uttered to the honorable Mr. Kerr, either officially or confidentially, a sentiment from which he could deduce an intention to make any complaint in the name of the government of Nicaragua of the want of good faith on the part of the government of the United States in the recent convention adjusted at Washington with the British minister, relative to proposing bases for an arrangement between Costa Rica and Nicaragua on their territorial questions, and for the separation of Mosquito. That which, alone, the undersigned recollects to have said to the honorable Mr. Kerr is, that the government of Nicaragua, in view of the bases enunciated, had come to the understanding that that of the American Union had proceeded without knowledge of the case, in a business of such vital interest to this State, because, not only was a considerable portion of the possessions which Nicaragua believes to be fundamentally her own conceded to Costa Rica, but also great and important advantages to her commerce and navigation in the rivers and lakes of this State, advantages which Costa Rica herself did not believe she could attain without making the sacrifice of pecuniary indemnifications, which she had already offered, and which were refused, with the object of bringing her to those principles of justice she was under obligation to observe relative to the question of the Guanacaste district, which that government has always eluded under protests not very justifiable.

The undersigned, in support of his assertions, referred to a memorial which he had written in London upon these questions, and other unpublished documents in the keeping of the government of Nicaragua.

As to the segregation of Mosquito, the undersigned also declared to you the regret it had caused to his government that that of the American Union had acceded to it, notwithstanding the grounds adduced by Nicaragua for refusing to recognize in the character of an independent State the hordes of Indian savages who inhabit that portion of territory originally called Mosquito, which the government of the undersigned had the right to expect would have been recognized by that of the American Union, in whose States principles have been proclaimed and adopted which, for identity of cause, of reason, of interest and of object the State of Nicaragua has maintained from the beginning of this question.

These were the only ideas expressed by the undersigned, in relation to this business, at the conference to which you are pleased to allude.

These were the very sentiments expressed by the director at the conversation which took place with Mr. Walsh, when he was introduced by you without previous announcement, or any of the formality of ceremonial. An annunciation which he made without emphasis, although with a tone of dignity not foreign to a governor who knows how to reconcile what is due to his honor, and the honor of the country which he governs, with the consideration and regard which he owes to those of other sovereign States, at the moment when Mr. Walsh declared, with a certain air of disrespect and menace, "That the principles of international law on which the director sustained the rights of Nicaragua were written in Vattel, and other authors of treatises, but that governments acted always as suited their interests and their power, and that the bases proposed by his government and that of Great Britain ought to have the effect of a definitive decision, since it was, as to them, a business brought to a close, notwithstanding any opposition on the part of that of Nicaragua."

The undersigned, in making this explanation to you, feels the deepest regret to perceive in your letter opinions which indicate a disposition little favorable to the consolidation of the relations of friendship and cordial understanding existent between the republics of the United States and Nicaragua, but the government of the undersigned believes, notwithstanding, that such disposition will readily be dissipated, and that once convinced of the sincerity of its sentiments, you will make them known to your august government, as well as the principles according to which it will become her to act in the negotiations relative to the territorial questions under discussion, so as to preserve to Nicaragua that which is due to her propositions, her justice and her interests, which are considered entirely identified with the dignity, principles and interests of the United States.

In fine, the undersigned requests you to accept the assurance of the high consideration and friendship with which he has the honor to be Mr. Kerr's very obedient, humble servant,

FRANCISCO CASTILLON.

[INCLOSURE NO. 2.]

(Mr. Castillon to Mr. Kerr.)

[*Translation.—Extract.*]

GOVERNMENT HOUSE,
MANAGUA, August 3, 1852.

SIR: * * * * * * * I must
also here say to the honorable Mr. Kerr that the Memorial which he has transmitted in respect to the military detachment ordered to the "Old Castle," is not accurate.

The military force ordered to that point has no object hostile to Mr. Wiener;

it has no other than to constitute the guard to be stationed at that point to prevent the smuggling which is carried on to the prejudice of the State by the company itself, and, after having remonstrated with it, and protesting against the establishment which was being formed there contrary to the reservations contained in article 27 of the contract of the 22d of September of the year 1849. My government would have congratulated itself, and would have congratulated Mr. Weiner, if promptly leaving the castle, which is a military post, and an historic monument which the country should preserve, he should have erected his edifices at another of the many points which are to be found on the unoccupied and uncultivated margins of the San Juan. But you will comprehend that the rights of a State to the sites which it requires for objects of public interest and service are not to be postponed, nor ceded, on the mere consideration that that establishment is intended to facilitate the transit from one sea to the other.

The consequences which may follow the occupation of the castle by a military force, which may obstruct Mr. Wiener in the free use of this building, will bear upon the company itself, which, not even in the way of courtesy, treated with the government to have possession of that point; but, by giving too broad a construction to the 27th article referred to, makes to itself a donation of eight sections of ground, on both banks of the river, at its own selection—a grant which, even if it give the right to indicate the sites at which each section is to be surveyed, does not give to it the privilege to reduce them into possession without the intervention of the government to which it belongs to select, as well the points which it has need of for fortifications and construction of buildings, as to name commissioners for the demarcation of each section.

But these and other questions which turn on the original contract of the 22d of September, on its modifications, and on the last agreement of the 19th of August, of the year 1851, will undoubtedly be arranged with the company itself, without giving them more political importance than that which the natural course of events and of circumstances may suggest to the government of Nicaragua.

Finally, this government being convinced of the need for a consular agent of the United States at the port of San Juan del Sur, directs me to repeat to you what I said by its order in my dispatch of 21st July last, that is to say, it will confirm any provision for a consul which your government may please to make of any other person having the confidence of that government, who is free from all obligation or committal to Nicaragua.

My government hopes you will understand, through these explanations, that nothing is more settled than its desire to bind and cement the relations of friendship and good understanding which exist between the republics of the United States and Nicaragua, as well as to set at a distance any cause which might change them, or lead to disagreement between the two governments.

In this manner the director has instructed me to reply to your respected

communication here referred to; and, in making this assurance, I am honored in repeating the perfect demonstration of respect and esteem with which I am accustomed to subscribe myself, sir, your obedient humble servant,

FRANCISCO CASTILLON.

[*The above letter and inclosures appear as Document 47, Inclosures 1 and 2, in Special Message of President, 14th February, 1856, pp. 117-121.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

16th October, 1852.

(Mr. Marcoleta to Mr. Conrad.)

[*Translation.*]

NEW YORK, October, 16, 1852.

The undersigned, envoy extraordinary and minister plenipotentiary of the republic of Nicaragua, has the honor to inform the Hon. Mr. Conrad, Secretary of State of the American Union, that he has received orders from his government to propose to the government of the Union certain modifications to the bases signed at Washington, on the 30th of last April, by the Hon. Daniel Webster and the minister of her Britannic Majesty.

Consequently, the undersigned requests the Hon. Mr. Conrad, that he will be pleased to inform him whether his government is disposed to listen to the propositions of Nicaragua, and to proceed to a new discussion upon the matters which are of vital interest to both States.

The undersigned avails himself of this opportunity, and has the honor of tendering to the Hon. Mr. Conrad the assurance of his high and distinguished consideration.

J. DE MARCOLETA.

Hon. Mr. CONRAD,
Acting Secretary of State.

[*The above letter appears as Document 48, in Special Message of President, 14th February, 1856, p. 121.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

27th October, 1852.

(Mr. Kerr to Mr. Webster.)

[*Extract.*]

LEGATION OF THE UNITED STATES OF AMERICA,
LEON DE NICARAGUA, October 27, 1852.

SIR: * * * Coquetting had commenced between the Nicaraguans and some few of the townsfolk at San Juan del Norte. One hundred and fifty men were to be sent to the fort of San Carlos; but they must prefer their present position as a free town to anything that Nicaragua could offer in exchange.

Had such a scheme succeeded, the Granada party would have claimed the dictatorship for General Fuerto Chamorro; and the small force received as mere police would, in a bulletin extraordinary, have achieved a triumph over the United States and England combined. The *statu quo* should be insisted upon till these two states can settle their boundary difficulties. Any precipitancy at San Juan del Norte would greatly embarrass future negotiations. I have secured myself from chances of misconstruction by the most guarded correspondence at that point; and, in fact, as facilities are here, San Juan del Norte is far more removed from us than from you in Washington. The route to California carries the Americans through the centre of the broad lake to Virgin bay and San Juan del Sur, so far out of the regular line to Granada that letters and papers seldom reach here under two months—the duplicate of No. 15 was handed to me by a Granada merchant, immediately from New York, and dispatch No. 14 has not reached me. * * *

I have the honor to remain, with high respect and regard, your obedient servant,

JOHN BOZMAN KERR.

[*The above letter appears as Document 49, in Special Message of President, 14th February, 1856, pp. 121-122.*]

34th Congress, 1st Session,
Senate Ex. Doc. No. 25.
In Vol. 10.

28th October, 1852.

(Mr. Conrad to Mr. Marcoleta.)

DEPARTMENT OF STATE,
WASHINGTON, October 28, 1852.

SIR: Your note of the 16th instant has been received.

The President directs me to say in reply, that at the solicitation of the republic of Nicaragua this government was induced to interpose its good offices in order to bring about, if possible, a settlement of the long pending territorial difficulties between Great Britain and the so-called Mosquito nation and herself. It succeeded in obtaining the assent of Great Britain to an arrangement which, although it did not award to Nicaragua all the territory she claimed, awarded to her much more than Great Britain had ever before consented to admit to belong to her.

This arrangement, however, whether advantageous or not to Nicaragua, was only recommended to her, leaving it to her discretion to adopt or reject it.

But not satisfied with rejecting it, (which they had a perfect right to do,) the legislative assembly of Nicaragua saw fit "solemnly to protest against all foreign interference in the affairs of their government." Had this censure, as unjust as it was unexpected, emanated from a more powerful nation, this government would, from a proper sense of what was due to its own dignity, have declined any further connexion with the subject. But, as it is unwilling that the important interests involved in this controversy should be compromised by what it is inclined to consider an inconsiderate resolve of the government of Nicaragua, I am directed to say, that any propositions emanating from that government will be received and respectfully considered.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

C. M. CONRAD,
Acting Secretary.

Señor DON JOSE DE MARCOLETA, &c., &c., &c.

[The above letter appears as Document 50, in *Special Message of President*, 14th February, 1856, pp. 122-123.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

2d November, 1852.

(Mr. Marcoleta to Mr. Conrad.)

[*Translation.*]

LEGATION OF NICARAGUA,
NEW YORK, November 2, 1852.

MY DEAR SIR: The undersigned, envoy extraordinary and minister plenipotentiary of the republic of Nicaragua, has had the honor to receive the dispatch which the Hon. Mr. Conrad, acting Secretary of State, has been pleased to address him, under date of the 28th of October last, in reply to his communication of the 16th of the same month.

The aforesaid dispatch contains two essential points :

The first relates to the terms in which the legislative assembly of Nicaragua refused its sanction to the bases signed in Washington on the 30th of last April, by the Hon. Daniel Webster, of national and civic memory, and her Britannic Majesty's representative to the United States of North America.

The second merely goes to show that the President, with that kindness which is characteristic of him, and in consideration of the vital interests that are involved in the territorial questions between Great Britain, Nicaragua and Costa Rica, is disposed to listen to, and to take into consideration, the propositions that may be made by the government of Nicaragua.

With regard to the first point, the undersigned may be allowed to call the attention of the honorable acting Secretary of State to the motives which actuated the members of the legislative assembly of Nicaragua in issuing the decree of the 19th of July, 1852.

First of all, although it is true that in the preamble to the aforesaid bases it was laid down that the latter were merely recommendatory, yet the chambers did not fail to notice that ; in the last article, it was intimated to the government that on such bases being rejected, or failing to respond to them in proper time, the United States or Great Britain would, by themselves, adopt such measures as they might think necessary, in order properly to carry out the stipulations contained in the treaty concluded between the United States and England on the 19th of April, 1850.

The legislative assembly of Nicaragua saw nothing in this clause but a contradiction and a threat.

A contradiction, because the assembly had fully in mind the first article, to which reference was made, and in which both England and the United States, according to the text, renounced all ideas of occupation, every kind of jurisdiction and protection in Central America, especially as regarded Costa Rica, Nicaragua, and Mosquito; and because it saw, notwithstanding such binding clauses, that Great Britain was assuming the right of a protective power, in order to treat in the name of the protected party, the Mosquito chief; it appearing to the legislative assembly, that the government of the American Union might very well have avoided the interference of Great Britain in these questions by merely asking and exacting from her a faithful, precise and strict adherence to the article mentioned in the treaty aforesaid. Nor did the general assembly think that the right of conquest, which England arrogated to herself to the port of San Juan, could, in any way, be admitted without setting up and establishing a precedent which would be pernicious to the tranquility, security, and independence of nations. England was fully at peace with Nicaragua when the former took forcible possession of said port, for the restitution of which a price is demanded of the latter, in the bases, which is both unjust, excessive, and exorbitant.

The assembly could not help wondering, at the same time, at the kind of imperative manner in which the government was asked to give an immediate answer, knowing that the first dispatch which its plenipotentiary in Washington had the honor of addressing to the department of State on the 24th of February, 1851, a dispatch containing and treating of a question of vital interest to Nicaragua, had remained unanswered; and that a reply to the same had always been evaded, under various pretexts, for a period of seventeen months, and that this reply was still waited for at the present day.

A threat, because the assembly looked upon the articles contained in the bases aforesaid as offensive and aggressive in many of their provisions to the national sovereignty; articles and provisions totally and diametrically opposed and at variance with the instructions which the assembly itself had examined, discussed, and approved, and recommended the government to transmit to its plenipotentiary at Washington, who received them in due time; the same instructions which called forth the protest the undersigned plenipotentiary found himself compelled to address to the Honorable Secretary of State, Mr. Daniel Webster.

To these and other considerations of various kinds may be added

the conduct pursued by Mr. Walsh, who neither presented nor recommended, but mentioned, the bases to the supreme magistrate of the State, in whose official residence he introduced himself without being previously announced, without showing afterwards, either in his language or his deportment, the respect due to the representative of the supreme magistracy, breaking out into threats unbecoming the place where he was and to his own self-respect, and the decorum due to the government which had sent him there as commissioner, and to the chief magistrate of the State, all of which conduct, standing out in singular contrast with the courtesy, circumspection, and amenity of Mr. Wyke, the British consul, who was entrusted with a similar mission, was the cause of the unpalatable truths which Mr. Walsh heard from the lips of the supreme director of the State.

In reviewing the circumstances above stated, it is not the purpose of the undersigned to indulge in any kind of recrimination; his object is simply to show to the honorable acting Secretary of State that the terms and the language in which the legislative decree of the 19th of July last was conceived were solely the result of a fatal combination of circumstances, which the government of Nicaragua regrets as much as that of the American Union, but which, nevertheless, the irresistible force of public opinion, of the duties incumbent upon the legislative assembly and the executive power, could not otherwise than have compelled the adoption of, as most conformable to the interests and rights which each of the powers aforesaid is respectively called upon to defend and protect.

The undersigned being convinced that the foregoing statement will suffice to mitigate, and certainly to do away with the impression produced on the minds of the President and of the honorable Secretary of State relative to the conduct which an imperative sense of duty on this occasion compelled Nicaragua to pursue, and reiterating, at the same time, to the honorable acting Secretary of State the sincere and ardent wishes of Nicaragua to cultivate and to continue on the best and most cordial friendly terms with the government of the American Union, he will now have the honor of explaining to him the means which Nicaragua considers best calculated to secure a favorable result, and to put an end at once to the existing state of things with the least possible detriment to the parties interested.

The government of Nicaragua thinks, and has the honor at the same time to submit to the American government, that the 1st and

2d articles of the bases of the 30th of April last may, with propriety, be mended ; and with this view, it begs to suggest, and is ready to adopt, a new wording, modified as follows :

“ The Mosquito Indians and the territory known by that name, including the port of San Juan del Norte, shall in future, and for all times, be incorporated with, and re-annexed to, the State of Nicaragua, in which they shall enjoy the same rights and be subject to the same obligations as the rest of the inhabitants of the State, said territory being considered as one of the departments ; and, as such, it will contribute representatives and senators to the legislative chambers in the form and on the principles specified by special law. The commerce of said territory, with the other portions of the State, shall be entirely free and open, both by land and water, for the navigation of vessels and the transit of vehicles, which shall enjoy the utmost security.

“ Nicaragua binds herself to grant to the Mosquito Indians, by way of indemnification in consequence of the improvements made in the port of San Juan del Norte—

“ 1st. Four per cent. on the net proceeds of said port for a period of five years ; this sum to be paid annually by the collector of the port into the hands of the municipal authorities hereafter to be established there, in order that the same may be invested in objects of common advantage to those inhabitants.

“ 2d. Nicaragua will assign an equitable annuity for life to the *cacique* or chief of the Mosquitos.

“ 3d. Nicaragua will pledge herself to recognize and to respect as lawful the grants of lands that may have been made since the 1st of January, 1848, until the present day, by the authorities of the Mosquito territory, with the exception of those grants that are in opposition to the grants of lands made by the Spanish government, by the federal government of Central America, and by the government of Nicaragua, and those grants which clash with the privileges of the canal companies accessory to the way of transit, or when the lands thus granted are located at those points which the State wants for building forts, custom houses, arsenals, and other public edifices, which points shall remain at the disposal of said State.

“ The port of San Juan shall preserve this, its original appellation, and the public municipal authority shall be exercised in the name of the State, in the same manner as in all the other parts of the territory incorporated with and annexed to Nicaragua in virtue of the present treaty.

“ The republic of Nicaragua, with a view of facilitating the construction of the great interoceanic canal on the terms stipulated in the contract of September 22, 1849, binds herself not to construct, nor to allow the construction of, any work which might interfere with the labors of the canal or the navigation and entrance of the ports, rivers, and lakes where it may be necessary to carry on those works of interoceanic communication; it being well understood that the exclusive right granted to the company accessory to the transit enterprise, and the power which is conferred upon the same by the 1st article of the agreement of August 19, 1851, is not to exceed the bounds and objects specified in the 30th article of the original contract of September 22, 1849, the scope of which is to promote the speedy construction of the canal in case the latter should not be practicable, as it has been stated to the company, which company must strictly submit to the provisions of said article 30th, agreeably to the stipulations contained in the 9th article of agreement of August 19, 1851, alluded to.

“ In case the interoceanic communication should be effected, either wholly or in part, through the territory of Nicaragua, the United States and England shall become respectively bound to unite their efforts to those of the government of Nicaragua, in order to guaranty the neutrality of this important way of communication, with a view of protecting the sovereignty of the State, and the free transit against all seizure or confiscation, on the same terms, and in all such cases, as are specified in the 5th article of the treaty of April 19, 1850, adjusted between the United States and Great Britain.

“ And with a view of fixing the distance within which vessels of all nations must be exempt from blockade, detention, or capture, by any of the belligerent parties, in case of war, this distance shall be declared to extend for thirty nautical miles, from the water mark at low tide, at both extremities of the canal.

“ It being desirous that no time should be lost in beginning the construction of said canal, the government of the United States, Great Britain, and Nicaragua shall agree, that in case the company, recipient of the grant, should not succeed, within the term of one year, counting from the date of the ratification of the treaty, in obtaining the subscription of a capital necessary and sufficient for executing the work, or in case of there being any other insurmountable natural impediment to prevent the construction of the same, in the same manner as in regard to the construction of a railroad, in such

case, there shall be no obligation on the part of Nicaragua to observe and abide by said contract, and the company shall lose the privilege.

“The government of Nicaragua, having consulted that of the United States and of Great Britain, shall grant the privilege to any other company, upon such conditions and stipulations as shall be most suitable for carrying out so stupendous a project.

“The transit company shall enjoy the same protection as was guaranteed in the treaty of April 19, 1850, to the Atlantic-Pacific Canal Company, provided that the former confines itself to the object of promoting and facilitating the construction of the canal, on the same terms as those stipulated in the 30th article of the original contract of September 22, 1849, which shall be inviolably observed, in conformity with the provisions of the 9th article of the agreement of August 19, 1851, it being understood that any other article in said agreement, tending to alter the sense of the above, shall be considered as null, of no value nor effect, and the power previously granted to the company shall cease.”

Such are the modifications which the undersigned has been directed to suggest to the government of the United States, concerning the Mosquito question, the port of San Juan, and the canal and transit companies. Those which relate to the two companies, however, are not definite. This is another proof that the government of Nicaragua is disposed to favor, in all that depends upon itself, the construction of an interoceanic communication, without intending to constitute itself the protector of a new speculation on the part of any number of persons or companies, not actuated by a similar desire to carry out a work so advantageous to the commerce of the world.

The Canal and Transit Companies are now in a different position from that which they occupied at first, before they had invited European capitalists to take part in this gigantic work; and not being able to command at present, from all appearances, the necessary capital nor the means to carry out the undertaking by themselves, they would want to obtain some modifications in the original contract, modifications to which the government of Nicaragua cannot pledge itself *a priori*, before having seriously considered the subject, as well as consulted the great powers friendly to said government.

The modifications, therefore, that may be required by said companies are henceforth subjected to others, according to the condition

in which said companies find themselves, or according to the greater or lesser guaranties and probabilities which they may offer, of being able to consummate an undertaking which shall be entitled to general approbation.

Moreover, according to the legal opinion of that worthy and distinguished jurist, Daniel Lord, of New York, the conduct and actual management of these companies has given rise to well founded suspicions, in consequence of the excesses and irregularities committed by their agents in Nicaragua, the tone and complexion of their official communications, and especially on account of their having evaded, under specious pretexts, the performance of many of the obligations to which they were pledged by the contracts of April 22, 1849, and of August 19, 1851.

With regard to the territorial boundaries between Nicaragua and Costa Rica, although Nicaragua is of opinion that this is a family question which ought to be settled between its own members, avoiding thereby those rocks upon which all the efforts that have been made, until now, for the settlement of the main question have been wrecked, which have, at the same time, served as an obstacle against the consummation of the splendid project of peace and good harmony between all, and for the establishment of a canal on the Isthmus of Nicaragua, yet the government being desirous to give some evidence of the wishes by which it is actuated, to secure a good understanding between two sister republics, comes forward to manifest its solicitude for the mutual welfare of both, without jeopardising, however, the important interests which said government is bound to protect and to defend.

And if by chance the government of the United States thinks it proper that the settlement of this question should henceforth be resolved and included in some treaty, which circumstances may give occasion for, Nicaragua makes the following propositions:

“The boundaries between Nicaragua and Costa Rica shall be the same as were formerly comprised by the old province of Nicaragua, to wit: from the *Rio del Salto*, in the Pacific, following a diagonal line towards the interior to the *Rio Paritina*, in the Atlantic.

“At the same time, Nicaragua pledges herself that the navigation of those rivers which are located within the boundaries of Nicaragua from the point where they begin to be navigable, as well as the waters of the lake, lakes, and all navigable waters generally, shall be

entirely free and common to the subjects of each State, without any restriction, nor any special condition favoring one party more than the other, it being understood that the citizens of Costa Rica, as well as those of Nicaragua, shall be subject to the only limitation established by the 23d article of the contract concluded with the canal company on the 22d of September, 1849, and that they shall conform with all the regulations concerning the navigation law and the other laws of the State."

Costa Rica shall, moreover, enjoy the following privileges:

" 1. Entire exemption from importation duties for the port of San Juan during a period of ten years.

" 2. Absolute exemption for all time, from duties on exported articles of her own produce and manufacture for said port.

" 3. Equal immunity and freedom, for all time, to navigate the *Rio Serapiqui*; with the obligation of constructing, at her own expense, (Costa Rica's) the works necessary to render said river navigable, and to preserve it in the condition it will be after the works necessary for such purpose shall have been executed.

" 4. To establish at the confluence of the rivers San Juan and Serapiqui, or at any other point she may think proper, custom houses, stores, warehouses and revenue station.

" 5. The privilege empowering her subjects to keep, in the port of San Juan, warehouses for depositing such merchandize as they may have to import through the interior of her territory, for a period of fifteen years. These points to be adjusted and agreed upon by means of a special convention, which shall, at the same time, designate the mode and the manner in which the boundaries of the frontier between the two States have to be established."

The government of Nicaragua hopes that the foregoing modifications and propositions, which embrace the various points in question, will meet with the approbation of the government of the United States, and that, with the zeal and interest it has always manifested for good harmony and friendly relations between the parties interested, it will contribute to the acceptance, on the part of all, of an arrangement which Nicaragua considers the most just and equitable for the common and general interests, obtaining in this manner, and very briefly, the results which are desired.

The undersigned begs the honorable acting Secretary of State that he will be pleased to submit the contents of this dispatch to the President of the republic, and at the same time he avails himself

of this new opportunity to renew to him the assurances of his high and distinguished consideration.

J. DE MARCOLETA.

Hon. MR. CONRAD,
Acting Secretary of State, Washington.

[*The above letter appears as Document 51, in Special Message of President 14th February, 1856, pp. 123-129.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

11th November, 1852.

(Mr. Molina to Mr. Everett.)

LEGATION OF COSTA RICA,
WASHINGTON, November 11, 1852.

The undersigned, minister of Costa Rica, has the honor of addressing himself to the honorable Secretary of State, for the purpose of calling his attention to the unfinished state of the negotiations set on foot by this government in the month of last April, respecting the settlement of the territorial differences and other matters pending between the State of Nicaragua and the republic of Costa Rica, and between the former State and the Mosquito Indians.

Mr. Everett is, no doubt, aware that his illustrious and lamented predecessor in office, the honorable Daniel Webster, in concert with Mr. Crampton, her Britannic Majesty's minister to this government, and with a view of facilitating the construction of the contemplated ship canal, took pains to draw a plan of adjustment in as fair and equitable terms as it was possible, under existing circumstances, to devise.

That project having been agreed upon and signed on the 30th of April, it was to be recommended to the immediate and earnest consideration of the governments of Costa Rica and Nicaragua respectively, by means of special agents sent there for the purpose, as it appeared desirable to insure their prompt decision. Mr. Walsh was accordingly appointed, on the part of the United States, and was authorized to communicate on the subject with the governments aforesaid, acting in connexion with Mr. Wyke, the newly appointed British consul general to Central America, then on his way to his future sphere of action.

For greater dispatch the two commissioners were conveyed to their destination in an American man-of-war, showing thereby that there was a determination to bring matters to a speedy issue.

The commissioners directed their course first to San José, where they met the cordial welcome that the nature of their errand and their personal merits entitled them to expect.

The government of Costa Rica, however, having fully considered the propositions presented by them, could not fail to find strong objections in regard to some of the arrangements contemplated. The direct advantages of the interoceanic communication were intended by these arrangements to accrue exclusively to Nicaragua, as long as the companies' charters lasted, the boundary of Costa Rica was to be removed from the northernmost branch of the river San Juan to the Colorado branch, the Atlantic-Pacific Ship Canal Company was to be allowed to locate, on the Costa Rican side of the river San Juan, certain sections of land that Nicaragua had granted to it, in defiance of the sovereignty of Costa Rica over those territories.

It is a well known fact that neither the government of Nicaragua, nor the company to which the already mentioned privileges had been granted, had in their mutual transactions paid any regard to the claims of Costa Rica, as if the latter republic had no right to be a party in the affair. And it was natural, therefore, for the government of Costa Rica to feel itself aggrieved on the subject.

Nevertheless, desirous of removing any difficulties that might impede the success of the canal enterprise, on the conviction that it is always judicious to compromise matters in dispute, and from a sense of grateful regard for the powers that were thus exerting their kind mediation and proffering their advice, the government of Costa Rica gave, on the 22d of June, with the sanction of the legislature, an unqualified assent to the propositions recommended, confining itself to invoke the friendly offices of the mediating powers, in order to obtain some slight modifications in favor of Costa Rica.

Nicaragua, on the other side, who had been the most favored party, by the provisions of the proposed adjustment, has shown a quite different disposition. The government of that country has rejected the project in a manner which, to say the least, deserves to be qualified as very inconsiderate, while the counter propositions of the 29th of July, presented to the commissioners in that quarter, require no comment on the part of the undersigned, such propositions being nothing more than a demand that every point at issue should be settled according to the views of that government. This unsatisfactory result must have proved to the American cabinet that there is no

hope of ever bringing that State to a correct appreciation of its position, interests, and duties.

In the meantime, Costa Rica stands on a false position, having pledged herself to abide by the opinion of the governments of the United States and Great Britain, as set forth in the propositions, without obtaining in exchange any security against the assumptions and encroachments of Nicaragua; the adoption of other means of self-defense being denied to her, whilst her rights are actually disregarded, and her interests deeply injured in various ways.

It seems to the undersigned, that the governments of the United States and Great Britain are both pledged by the concluding words of the project to take a final action on the premises. Costa Rica, trusting on this declaration, did not hesitate to concur in their views.

The undersigned, therefore, in compliance with the repeated instructions he has received from his government, begs leave to call the attention of the honorable Secretary of State to the expediency and propriety of concluding a treaty between Costa Rica and the United States, according to the tenor of the propositions; Costa Rica, on one part, agreeing to convey, on her own and undisputable title, to the American Atlantic-Pacific Ship Canal Company the right of way, privileges of navigation, and sections of land; all of which concessions that company is in need of at present, in order to legitimate the tenure of its charters; and the United States, on the other part, engaging to support Costa Rica in the maintenance of her boundaries and rights against the assumptions of Nicaragua.

This proceeding appears to the undersigned to be the only course now open for both parties, in order to terminate this affair, which has been kept in suspense since Mr. Walsh's return, three months ago. Any further attempts at negotiation with Nicaragua would, no doubt, result in fresh disappointments.

The minister of Costa Rica earnestly and respectfully requests Mr. Everett's early attention to the contents of this note, trusting that the conduct of Costa Rica in the premises has been duly appreciated by the American government.

And he has the honor of renewing to Mr. Everett the assurance of his very distinguished consideration, with which he begs to remain his most obedient humble servant.

F. MOLINA.

Hon. EDWARD EVERETT,
Secretary of State of the United States.

[INCLOSURE NO. 1.]

(Mr. Molina's project for the settlement of Central American affairs.)

Suggestions as to the course that may be adopted for the settlement of the Central American affairs.

Firstly. A treaty can be signed between the United States and Costa Rica as I have proposed, providing the maintenance of the state of things contemplated by the propositions of April, as regards Costa Rica and Nicaragua and the canal company; such state of things to be considered as a finality.

Secondly. Should not this plan seem advisable, a treaty could be concluded between the United States and Costa Rica, stipulating the maintenance of the contemplated arrangements as regards Costa Rica, Nicaragua, and the canal company, only as a temporary settlement, to be kept until such a time as the governments of Costa Rica and Nicaragua shall effect a peaceful adjustment of their differences, either by a direct agreement or through arbitration. Provided that these temporary settlements shall not prejudice any of the claims of the contending parties, which claims shall be discussed and adjudicated upon in their full extent and in all their bearings.

Thirdly. With reference to the Mosquito part of the affair, should it appear advisable to transfer Greytown to Costa Rica, this republic will accept the transfer on the terms proposed to the advantage of the Mosquito Indians; granting likewise municipal privileges to the inhabitants of that port, and a perfect freedom of trade. Costa Rica would be willing, likewise, to hold that place only as a kind of trust, until such a time as Nicaragua shall give its acquiescence on the same conditions, and reimburse Costa Rica of the outlays which she would have made in order to pay the indemnity to the Mosquito Indians, or for other objects, regarding the possession of that port.

WASHINGTON, November 17, 1852.

[The above letter and inclosure appear as Document 52, Inclosure 1, in Special Message of President, 14th February, 1856, pp. 129-132.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

19th November, 1852.

(Mr. Walsh to Mr. Everett.)

[Extracts.]

WASHINGTON, November 19, 1852.

SIR: I have had the honor to receive your communication of yesterday, enclosing an extract from a note of the minister of Nica-

ragua, in which I am accused of grossly improper conduct towards the government of that country. I at once pronounce the accusation to be false.

* * * * *

After accomplishing my mission to Costa Rica I proceeded, in pursuance of my instructions, to Managua, for the purpose of getting any dispatches which our chargé d'affaires might wish to send by me to the United States. *Before my arrival there* the propositions of Great Britain, and the United States, for the settlement of boundaries, had been rejected by the government of Nicaragua, in a way that indicated feelings of great irritation. I remained a few days in Managua to give Mr. Kerr time to prepare his dispatches, and deemed it proper, whilst there, to pay my personal respects to the minister of foreign affairs. Accordingly, I called upon him in company with Mr. Kerr, by whom I was introduced in due form. In the same apartment with him were the president and two other ministers of state, and to them, also, I was presented, although my visit was only meant for Mr. Castillon. After a few complimentary allusions to the beauty of their country, I said that although I held no official position in regard to them, and had, therefore, no right to speak to them on official matters, yet I hoped they would permit me to express my regret at not being able to take to the United States a favorable answer from them to the propositions, such as had been given by the government of Costa Rica. This led to a conversation on the subject of the treaty, in which, as they seemed disposed to carry it on, I endeavored, to the best of my ability, to make them sensible of the mistake they had committed in refusing the propositions, by representing to them the benefits which, in my opinion, would accrue from their acceptance, and the evils which would flow from their rejection.

As I was talking merely as a private individual, I thought myself free to speak more unreservedly than, perhaps, would have been "diplomatic" if any official relations between us had existed. This fact they must have perfectly understood, and the charge, therefore, of "neither presenting nor recommending, but mentioning the bases," is simply absurd, as far as the non-presentation of those bases is concerned, I having, as they well knew, no authority to present them; as to the non-recommendation of them it is absolutely false, for I urged every argument in their favor that could be employed. To the next charge, that of "introducing myself to the supreme magistrate without being previously announced," the

foregoing account of my visit is an answer quite sufficient to show how contemptible it is. Equally false is the charge that I broke out into threats or showed disrespect in either language or deportment. If any one were obnoxious to the imputation of unbecoming behavior, it would be the President himself in the remarks that he ventured to make about the government of the United States, which he accused of breach of faith in its conduct towards Nicaragua. That my indignation was aroused by this accusation, and that I replied to it with emphasis, I freely avow. I should indeed have been wanting in "self respect," and in the respect due to my government, if I had not done so ; but that I went a step beyond the limits of decorum, I deny. My language might, with all propriety, have been more energetic even than it was, in repelling the unwarrantable remarks on this head of both the President and the ministers. An idea of them may be derived from the fact that Mr. Kerr deemed it his duty to address a note to the minister of foreign affairs, soon after the conversation, asking for the evidence on which they were based, no answer to which had been given up to the time of my departure. I presume that "the unpalatable truths" which it is said that I heard "from the lips of the supreme director of the State," were these aspersions on the government of the Union, as I can recollect nothing else that was uttered to which the phrase can refer.

The truth is, sir, that the government of Nicaragua was in very angry mood against that of the United States. It had been led to believe that our government would sustain its pretensions in every way, and its irritation was great on discovering its mistake. *Conflata magnâ invidiâ. seu bene, seu male, gesta premunt.* The good understanding between the American and British cabinets was unpalatable to it in the extreme, giving, as it did, a death-blow to its hopes of profiting by the rivalry of the two powers. It was also engaged in vexatious disputes with the transit company ; and not long before my arrival serious difficulties had occurred with the American residents in the town of Granada. The idea, moreover, of yielding aught to Costa Rica, hating that country as it does for its immense superiority in all that renders a nation respectable and prosperous, was more exasperating, even, than the loss of the most valuable territories and privileges. It would, indeed, be matter of deep regret, if our government had in any way abetted its enmity to the Costa Ricans, who, by their industry, integrity, and progress, are doing credit to republican institutions. * * *

I beg pardon for trespassing at such length upon your patience, but I am anxious to remove at once from your mind the slightest suspicion that I could be guilty of such conduct as is charged. I have been many years in the diplomatic service of the country, and this is the first time that aught to my disparagement has been placed on the files of the Department of State; whilst I might adduce various testimonials on record there of the manner in which I have discharged my duties, as evidence of the improbability of guilt in the present instance. * * * Nevertheless, as Mr. Kerr was present at the interview, I respectfully request that you will send him copies of the accusation against me, and my reply, in order that his testimony as to what passed may be obtained.

I have the honor to be, sir, with great respect, your obedient servant.

ROBERT M. WALSH.

Hon. EDWARD EVERETT,
Secretary of State.

[*The above letter appears as Document 53, in Special Message of President, 14th February, 1856, pp. 132-134.*]

32d Congress, 2d Session.
Senate Ex. Doc. No. 1.
In Vol. 1.

6th December, 1852.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

The settlement of the question respecting the port of San Juan de Nicaragua and of the controversy between the republics of Costa Rica and Nicaragua in regard to their boundaries, was considered indispensable to the commencement of the ship canal between the two oceans, which was the subject of the convention between the United States and Great Britain of the 19th of April, 1850. Accordingly, a proposition for the same purpose, addressed to the two governments in that quarter and to the Mosquito Indians, was agreed to in April last by the Secretary of State and the Minister of Her Britannic Majesty. Besides the wish to aid in reconciling the differences of the two republics, I engaged in the negotiation from a desire to place the great work of a ship canal between the

two oceans under one jurisdiction and to establish the important port of San Juan de Nicaragua under the government of a civilized power. The proposition in question was assented to by Costa Rica and the Mosquito Indians. It has not proved equally acceptable to Nicaragua; but it is hoped that the further negotiations on the subject which are in train will be carried on in that spirit of conciliation and compromise which ought always to prevail on such occasions and that they will lead to a satisfactory result."

* * * * *

MILLARD FILLMORE.

WASHINGTON, December 6, 1852.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

13th January, 1853.

(Mr. Kerr to the Secretary of State.)

[*Extract.*]

[No. 14.] LEGATION OF THE UNITED STATES OF AMERICA,
LEON DE NICARAGUA, January 13, 1853.

SIR: * * *

Guatemala and Costa Rica boldly avow that they intend to remain as they are, distinct republics, and Salvador, with actual revenue and available resources, through the important seaport in the gulf of Fonseca, the entrepot, in fact, for the whole country, must necessarily be trammelled just now by a political connexion with States so unsettled as Honduras and Nicaragua. This sentiment is deeply fixed in the minds of the intelligent men of San Salvador, while the importance of nationality is understood and appreciated by all classes of persons.

In Nicaragua and Honduras there is no heartfelt reverence for the principle, and with much more of bluster and pretense it has now become a mere juggle of state to cozen others.

The idea artfully disseminated among these poor people is, that England, in fear and jealousy of their growing power and importance, stands in awe of a confederation, against which it is essential for her interests to be constantly aiming an envious missile. The possession of the Belize by the English is a fixed fact, dating back many years as against Spain, and the Mosquito question has been a subject for discussion and negotiation for nearly two centuries.

It is now questionable to whom this insalubrious sweep of

country on the Atlantic belongs; while in view of our policy in regard to Indian tribes, the protectorate of Mosquito must be taken as a shift and subterfuge. Save at one or two points at the mouths of rivers, it is along its whole extent a wilderness, unexplored and almost inaccessible.

Held by Spain as a sort of trust fund for the benefit of her transatlantic possessions when disposed to traffic, New Grenada, to this day, makes continual claims for a sliver, notwithstanding the possession of the States proper of Central America. Guatemala and Costa Rica, seemingly indifferent to the discussion of these political questions, have been bending their energies to the development of trade. Such lukewarmness has been stamped with opprobrious epithets, and they are hated yet the more for their evident prosperity; there might now be just grounds of objection to the strong executive power as wielded by General Carrera, but it is in virtue of a constitutive act, behind which the leading men there hope to find a breathing time for progress, social as well as political. The influence of Guatemala is very marked. The city has its schools of law and medicine, and it has been the fashion to look upon it as the headquarters of learning and refinement. The government is not permitted, however, to enjoy the requisite repose, as there is a party in the mountains under the name of Lucios, from a chief executed as a felon some years ago, infesting the highways and keeping up a constant state of alarm—so confident at times in strength and numbers as to have threatened the capital. These mountaineers, partially quelled by General Carrera, are supplied with arms and suborned, it is alleged, by Salvador and Honduras. Recently, matters have been brought to a crisis, as in the pursuit of some fugitives, the Guatemala officers have not hesitated to cross the frontier. The peace policy of Salvador, under Mr. Duenas, has led to something like accommodation, but the latest intelligence from Honduras is that a force has been called out by General Cabanas, the president, to meet fifteen hundred men now led by General Carrera. The fair at Esquipulas is at hand, and the *Guatemala Gazette* mentions General Carrera's departure in that direction with a small number of men. This may have been exaggerated for some political purpose in Honduras. There have been intimations given of the application of forcible measures to sustain nationality in case the programme of the Tequiequalpa convention be not accepted. A somewhat notorious character, a sort of free companion, after the irregular practice of the middle ages, professing military skill, is now lying perdue at

Managua. The presence of Guardiola, in this State, trifling in itself, is yet particularly suspicious, as it indicates a settled apprehension of political turbulence on the part of the Nicaraguan government.

* * * * *

I have the honor to be, with very distinguished consideration, sir, your most obedient humble servant,

JOHN BOZMAN KERR.

[*The above letter appears as Document 54, in Special Message of President, 14th February, 1856, pp. 134-135.*]

34th Congress, 1st Session.
Senate Ex. Doc. 3.
In Vol. 6, p. 2.

19th January, 1853.

(Lord John Russell to Mr. Crampton.)

FOREIGN OFFICE, January 19, 1853.

SIR: In treating of the affairs of Mosquito I must, in the first place, refer you to a despatch of Lord Malmesbury of the 16th of July, 1852, upon this subject.

It is evident that since Great Britain first assumed the protection and defense of the Mosquito Indians the position of all parties has changed.

First. Spain, instead of exercising absolute sovereignty over Central America, and prohibiting all commerce on the coasts under her sway, has entirely lost her dominion on the continent from Cape Horn to Florida.

Secondly. The Mosquito Indians, instead of governing their own tribe according to their own custom, furnish a name and title to Europeans and Americans who carry on trade at Greytown and along the coast of Mosquito, according to the usages of civilized nations.

Thirdly. Great Britain, instead of having an interest in the defense of the Mosquito Indians for the sake of rescuing part of the territory of Central America from Spanish control and obtaining an outlet for her commerce, has no other interest in Mosquito than that which is derived from an honorable regard for her old connexion with the Indian nations of Mosquito.

Her Majesty's government has for several years endeavored to suit her engagements to the actual circumstances of the case, but every proposal that has been made with this view has encountered

some insuperable obstacle. The contentions in Central America between Nicaragua, Costa Rica, and Honduras, the absence of any authority with which any permanent agreement could be made, unfounded jealousies of Great Britain, and various other circumstances, have prevented a settlement of this vexatious question.

In conformity with the opinion stated in Lord Malmesbury's dispatch of July 16, to which I have already referred you, I have to state that the committee of government of Greytown are, in fact, the real power which exercises authority in that part of Central America.

To her Majesty's government it would be a matter of indifference whether that authority was exercised in the name of the King of Mosquito or in the name of Greytown itself; but it is desirable that what is apparent should be made to conform, as far as possible, with what is real. What is apparent is, that the King of Mosquito exercises sovereignty over Greytown; what is real is, that he has no authority there whatever, but that a committee of Europeans or Americans carry on the government at that port.

What her Majesty's government, therefore, would consider a good and final arrangement would be:

First. That Greytown should be a free and independent port connected with Mosquito by such relations of friendship and alliance as may be agreed upon.

Secondly. That indemnification or advantages equivalent to those laid down in the project of convention of April 30, 1852, shall be assured to Mosquito, in return for its withdrawal from its present position in regard to Greytown.

Thirdly. That Great Britain and the United States, without guaranteeing Greytown, should be ready to act in concert to defend the independence of the free city or port of Greytown from whatever quarter it might be attacked.

What is essential and of immediate importance is, that the authorities of Greytown should be ready to assume either unqualified independence with an engagement to defend Mosquito or a qualified independence owing allegiance and support to Mosquito.

For this purpose some person qualified to treat should proceed at once to Greytown whether a naval officer of her Majesty, or a civilian, would be the fittest person to be entrusted with this mission, I must leave to you to decide.

It would be desirable, if the government of the United States should concur in these views, that a new convention in the place of

the unaccepted project of agreement of April, 1852, should be projected and concluded; and that a person similarly qualified should be sent by that government at the same time and for the same object.

I have only further to say that the indemnity to Mosquito might possibly not be made in money, but in greater security for a certain fixed territory within which the free port of Greytown, assisted by her Majesty's ships of war, might manage to defend the Mosquito nation.

The governor-general of Canada and the authorities in other of her Majesty's North American possessions have made, from time to time, agreements somewhat similar. The President of the United States has frequently made conventions with Indians to the like effect.

The peculiarity of this case is that certain neighboring States deny altogether the independence of Mosquito, and the Mosquito nation are liable every day to new incursions upon their territory. We can make no complete provision against this danger. Our policy is to do all that honor and humanity require in behalf of the Mosquito nation; but we intend to adhere strictly to the treaty of Washington of the 19th of April, 1850 [Clayton-Bulwer Treaty], and not to assume any sovereignty, either direct or indirect, in Central America.

I am, &c.,

J. RUSSELL.

JOHN F. CRAMPTON, Esq., &c.

(Memorandum in Mr. Everett's handwriting.)

"Mr. Crampton authorized me to communicate the substance of this to Congress in any way I thought proper."

32d Congress, 2d Session.
Senate Ex. Doc. No. 27.
In Vol. 3.

21st January, 1853.

(Special Message of the President of the United States.)

To the Senate of the United States:

In compliance with the resolution of the Senate of the 10th instant, requesting certain correspondence relative to Central America, I transmit a report from the Secretary of State, and the documents by which it was accompanied.

MILLARD FILLMORE.

WASHINGTON, January 21, 1853.

DEPARTMENT OF STATE,
WASHINGTON, January 21, 1853.

The Secretary of State, to whom has been referred the resolution of the Senate of the 10th instant, requesting the President "to communicate to the Senate, if not incompatible with the public interest, the correspondence between the Hon. Abbott Lawrence and Lord Palmerston, or the government of the United States, relative to Central America, and also any other correspondence which relates to the claims of Great Britain to the Mosquito coast, or to any portion of the territory of Honduras or Yucatan," has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted,

EDWARD EVERETT.

To the PRESIDENT OF THE UNITED STATES.

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32d Congress, 2d Session.
Senate Ex. Doc. No. 28.
In Vol. 3.

27th January, 1853.

(Special Message of the President of the United States.)

To the Senate of the United States:

In answer to the resolution of the Senate of the 13th instant, requesting a copy of correspondence and other documents relative to Nicaragua, Costa Rica, and the territory claimed by the Mosquito Indians, I transmit a report of the Secretary of State to whom the resolution was referred.

MILLARD FILLMORE.

WASHINGTON, January 27, 1853.

DEPARTMENT OF STATE,
WASHINGTON, January 27, 1853.

SIR: With reference to a resolution of the Senate, of the 13th instant, requesting the President, so far as may be compatible with the public interest, to communicate to the Senate copies of any correspondence which took place with the Minister of Great Britain in the United States in respect to the treaty negotiated by Mr. Squier with Nicaragua, which was submitted to the Senate in 1850; also a copy of said treaty, and of any substitute for it, or any part of it, submitted to the American government by the British minister, and of the letters of the latter urging the acceptance of such substitute, and the replies thereto; and also copies of any correspondence which took place between the Secretary of State and the British Minister and the Minister from Costa Rica, in respect to a *projet* which was submitted to Nicaragua, Costa Rica and the Mosquito Indians, and a copy of such *projet*, with the instructions given to Mr. Walsh, the special agent deputed by the United States to present that *projet* to the States of Nicaragua and Costa Rica; as also of such other correspondence as may have passed between him and the Secretary of State upon the subject; as also copies of the correspondence with Mr. Kerr, chargé d'affaires of the United States in Nicaragua, in reference thereto, together with any correspondence with the government of Nicaragua of its Minister in respect to the same *projet*, and also copies of any letters which may have been addressed to this government by the Minister of Nicaragua or the Minister of Great Britain in reference to the construction and purport of the convention between the United States and Great Britain, signed April 19, 1850, and proclaimed July 5, 1850, and of the replies made to them, if any.

The Secretary of State has the honor to report that, as the negotiations on the general subjects referred to in the resolution are still pending, the production of the papers called for would tend to increase the difficulties which attend the settlement of the questions in discussion, and that for this reason it would not be for the public interest that they should at this time be communicated.

Respectfully submitted,

EDWARD EVERETT.

To the PRESIDENT OF THE UNITED STATES.

32d Congress, 2d Session.
Senate Ex. Doc. No. 44.
In Vol. 7.

18th February, 1853.

(Special Message of the President of the United States.)

To the Senate and House of Representatives :

I transmit a report from the Secretary of State, embodying the substance of recent communications made by the minister of her Britannic Majesty to the Department of State, on the subject of the inter-oceanic canal by the Nicaragua route, which formed the chief object of the treaty between the United States and Great Britain, of April 19, 1850; and the relations of Great Britain to the protectorate of Mosquito, which she expresses herself desirous of relinquishing on terms consistent with her honorable engagements to the Indians of that name.

In consequence of these communications, and other considerations stated in the report, it is deemed advisable by the department that our diplomatic relations with the States of Central America should be placed on a higher and more efficient footing, and this measure meets my approbation. The whole subject is one of so much delicacy and importance, that I should have preferred, so near the close of my administration, not to make it the subject of an executive communication. But inasmuch as the measure proposed cannot, even if deemed expedient by my successor, take effect for near a twelvemonth, unless an appropriation is made by this Congress, I have thought it my duty to submit the report of the department to the two houses. The importance of the measure seemed to require an exposition somewhat in detail of the grounds on which it is recommended.

MILLARD FILLMORE.

WASHINGTON, February 18, 1853.

DEPARTMENT OF STATE,
WASHINGTON, February 16, 1853.

SIR: Recent communications have been made to this department by the British minister, relative to the affairs of Central America, of which I deem it my duty to report to you the substance.

It may first be proper to observe that the relations of the United States with some of the States of Central America have, of late

years, assumed an importance wholly out of proportion to the political consequence of those small republics, or the extent of our commercial intercourse with them, which is inconsiderable. This importance grows chiefly out of the fact, that one of the most advantageous routes of inter oceanic communications lies through this region. The public policy of the United States presents few objects at the present day of equal interest with a direct, expeditious, and economical line of intercourse between our Atlantic coast and the members of the Union on the Pacific.

It was mainly to effect this object that the treaty of 19th April, 1850, was negotiated between the United States and Great Britain. By this treaty the high contracting parties bound themselves to use their influence with any State or States, or governments, possessing, or claiming to possess, any jurisdiction or right over the territory which the proposed ship canal may traverse, or which shall be near the waters applicable thereto, in order to induce such States or governments to facilitate the construction thereof by every means in their power; and they also agreed to use their good offices wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the canal.

It was also stipulated by the treaty of 19th April, 1850, that if any differences should arise as to right or property over the territory through which the said canal shall pass, between the States or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the governments of the United States and Great Britain would use their good offices to settle such differences in the manner best suited to promote the interests of the said canal.

In execution of this stipulation, certain propositions were agreed upon by this department and the British minister, in the month of April last, having for their object to settle the territorial controversies which existed between the States and governments bordering on the line of the canal. These terms of settlement were assented to by Costa Rica, but did not prove acceptable to Nicaragua.

In making these propositions to the States interested, and in all the negotiations carried on by this government, the only object has been to secure, as far as possible, the passage of the canal through one and the same civilized State, in order to preclude the evils too likely to arise from its passing through more than one jurisdiction; and to exercise the influence and mediation of the United States,

which had been invoked by the parties in controversy, in the manner best calculated to promote their respective interests.

The conflicting claims of Great Britain and Nicaragua with reference to Mosquito, are among the difficulties which embarrass this subject. These difficulties arise principally from the fact that the port of San Juan del Norte, the eastern outlet of the canal, is claimed to belong to the Mosquito territory. By the first article of treaty of 19th April, 1850, the two parties agree that neither the one nor the other will ever erect or maintain any fortification commanding the canal, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America. But the relations of Great Britain to Mosquito and the Mosquito Indians, over whom she claims to have exercised a protectorate for a long course of years, remained under this treaty somewhat indeterminate. The port of San Juan del Norte, to which the name of Greytown has been given by Great Britain, though claimed as within the limits of this protectorate, has for about a year been really governed in the name of the titular King of Mosquito, by a committee of five American citizens chosen by the people. Nicaragua claims the rightful sovereignty over this port, (from which her authorities were, after a brief possession, ejected by a British force in January, 1848,) and over the whole Mosquito region, of which, however, it is maintained by Great Britain that Nicaragua never, at any time, had possession.

Information has lately been received at this department, from the minister of her Britannic Majesty, that the company which had contracted to build a ship-canal across the Isthmus of Nicaragua, having found it impossible to carry out the plan as originally contemplated, has resolved to propose to the government of Nicaragua a modification of that plan, with the view of constructing a canal of smaller dimensions than those specified in their contract; and the British minister has been instructed to intimate to this department, that if this information should prove correct, her Majesty's government would feel themselves at liberty, under the 7th article of the treaty of 19th April, 1850, to withdraw their protection from that company, and to transfer it to any other company which should undertake a canal on the original plan; it being deemed of the utmost importance by the British government that the great conception of an inter-oceanic canal, adapted to the accommodation of the vessels of the whole commercial world, should

not dwindle down to an ordinary transit route for coasting vessels which to distant nations would be comparatively destitute of value.

The British minister has also been instructed to signify to this department that since Great Britain first assumed the protection and defence of the Mosquito Indians, the position of all parties had changed. Spain, instead of exercising absolute sovereignty over Central America, and prohibiting all commerce on the coasts under her sway, has entirely lost her dominion over all parts of this continent. The Mosquito Indians, instead of governing their own tribe according to the customs of their race, furnish only a name and a title by which foreigners trading at San Juan del Norte, and along the Mosquito coast, according to the usages of civilized States, exercise the effective government of the country. In consequence of those changes, Great Britain, instead of having, as formerly, an interest in the defence of the Mosquito Indians, for the sake of exempting a part of the territory of Central America from Spanish control, and thereby obtaining admission for her commerce, has now no other interest in Mosquito but such as she derives from an honorable regard to her old connexion with the Mosquito nation of Indians.

It has been further stated to the department, by the British minister, that her Majesty's government has for several years endeavored to suit her engagements to the altered circumstances of the case; but that every proposal to that effect has encountered insuperable obstacles. The contentions in Central America between Nicaragua, Costa Rica, and Honduras, the absence of any authority with which a permanent agreement could be made, and various other causes, have hitherto prevented a settlement of this vexatious question.

The British government regards the committee of government of San Juan del Norte, above referred to, as in fact the real power which exercises authority in that part of Central America. It would be a matter of indifference to Great Britain whether that authority was exercised in the name of the king of Mosquito, or in the name of the city of San Juan del Norte itself; but it is desired by the British government that the apparent state of things should be made to conform to the reality, which is not now the case; the government being nominally carried on in the name of the King of Mosquito, while it is really exercised by the committee organized at San Juan del Norte, or Greytown, under a popular election.

What the British government would consider a good and final arrangement would be—

First. That San Juan del Norte, or Greytown, should be a free and independent port, connected with Mosquito by such relations of friendship and alliance as may be agreed upon.

Secondly. That indemnification or advantages equivalent to those laid down in the project of convention of the 30th April, 1852, should be assured to Mosquito, in return for its withdrawal from its present position in reference to San Juan del Norte.

Thirdly. That the United States and Great Britain, without formally guarantying San Juan del Norte, should be ready to act in concert to defend the independence of the free city or port, from whatever quarter it may be attacked.

The British government deem it essential that the city and port of San Juan del Norte, or Greytown, should be established either in a state of unqualified independence, with an engagement to defend Mosquito, or of qualified independence, owing allegiance and support to Mosquito.

In lieu of an indemnity in money to Mosquito for relinquishing her claims to San Juan del Norte, it is suggested by the British government that a greater security for a certain fixed territory should be the consideration for that object.

For these purposes they propose to despatch some person qualified to treat with the authorities of this city; and in case the United States concur in these views, the British government would recommend that a new convention, in the place of the unaccepted agreement of 30th April, 1852, should be proposed and concluded, and that a person well qualified for the purpose should be sent by this government to act conjointly with the commissioner of her Britannic Majesty.

The British government is not aware of the difficulties arising from the fact that certain neighboring States deny altogether the independence of Mosquito, and that the Mosquito tribe of Indians are liable every day to new incursions upon their territory. They do not expect to make a complete provision against this danger. They consider it, however, their duty to do what is required by honor and humanity in behalf of the Mosquito nation; declaring, at the same time, that they "intend to adhere strictly to the treaty of Washington of 19th April, 1859, and not to assume any sovereignty, direct or indirect, in Central America."

Such is the substance of the communications which, within a few days, have been made to this department by the British minister,

under the directions of his government; from which it will be perceived—

First. That in consideration of the altered state of things under which it grew up, that government is disposed to relieve itself from the protectorate of the Mosquito Indians, provided that a security can be obtained for them against hostile incursions from the neighboring States.

Secondly. That the British government regards the erection of San Juan del Norte into a free and independent city, whose political condition would resemble that of the free cities of Germany, as the best course to be pursued for settling the controversies relative to the sovereignty of that place, and as the most convenient mode of insuring protection to the Mosquito Indians.

Thirdly. That though a formal guaranty of the free city is not proposed to be entered into by the two powers, Great Britain desires the concurrence of the United States in effecting these objects.

An opinion from this department on the merit of these suggestions, as a mode of settling the questions at issue in this part of Central America, would, under existing circumstances, be of little weight. They are given only as the views of the British government. It may be proper, however, to state that, in the opinion of the department, it would be more advisable that the two governments should use their influence with Nicaragua to induce her to accept the propositions of 30th April, 1852, than that they should resort to terms of settlement less advantageous to that government, as is the case with those now suggested by Great Britain. Recent events are believed to encourage the expectation that an effort of this kind would be successful.

However this may be, the communications of the British minister, made by order of his government, will no doubt be regarded as a satisfactory indication of a desire on the part of Great Britain, by resigning the Protectorate of Mosquito, to remove one of the most serious embarrassments of the case. They seem to this department also to suggest the expediency of a new effort to induce all parties to enter into an amicable settlement of their conflicting claims and interests. Such an effort might advantageously begin, by putting the diplomatic relations of the United States with Central America on a better footing. Of the five States included under that name, Costa Rica and Nicaragua have appointed ministers plenipotentiary to this government; and the Costa Rican minister is also minister

plenipotentiary of Guatemala. The United States have, at present, a chargé d'affaires at the capital of Nicaragua, and a chargé d'affaires to Guatemala was appointed last August, who, for causes beyond the control of the department, has not proceeded to his post. To the other States of Central America we have no representative. The secretary is of opinion, taking into view these circumstances, with the great magnitude of the interests of the United States to be promoted by the construction of the canal; the importance, delicacy, and complication of the territorial and political relations above referred to, with the overture for our friendly concurrence made by the British government, that much benefit might attend the appointment of a full minister to Central America, to be accredited to each of the governments included in that name; to reside successively at such of their capitals as he should deem expedient, with full powers to treat with any or all of them; and with instructions to use the influence which his rank would give him to promote the great work of conciliation. If some distinguished citizen of the United States, possessing the high qualifications required for the trust, should be despatched upon this friendly mission, there is reason to hope that he would be able to convince the governments concerned, that nothing can be gained among equals by adhering to extreme rights and pretensions, however strong the conviction on which they are founded, when an opposite conviction is entertained by the other party; that their true interest lies in a compromise of their conflicting claims; that the mediation of the United States and Great Britain may be honorably and safely accepted; and that its only alternative is a too probable succession of border wars and domestic convulsions, which can have no other effect than that of defeating the great work of inter-oceanic communication, and in other respects inflicting the most deplorable calamities upon countries which, in pursuit of the arts of peace might attain a high degree of prosperity.

In addition to these considerations in favor of the proposed measure, it may be mentioned that there are important private interests of American citizens at and near San Juan del Norte, which merit the protection of an influential representative of the government.

Nothing would be added to the expense of our diplomatic relations with Central America beyond the outfit, by substituting a full minister for two of the lower rank. It may be stated that our chargé d'affaires to Nicaragua has already been directed, on a

contingency of not improbable occurrence, to return to the United States, and that the appointment of a chargé d'affaires to Guatemala has been revoked.

The action of Congress being required for the appropriations necessary to carry the proposed measure into effect, it is respectfully recommended that this report should be communicated to the two houses.

All of which is respectfully submitted.

EDWARD EVERETT.

TO THE PRESIDENT OF THE UNITED STATES.

33d Congress, 1st Session.
Senate Ex. Doc. No. 13.
In Vol. 4.

19th May, 1853.

(Mr. Crampton to Mr. Marcy.)

[Private & Confidential].

BRITISH LEGATION,

WASHINGTON, May 19, 1853.

MY DEAR SIR: With reference to our conversation, yesterday, I enclose, for communication to the President, a copy of the despatch from Lord Clarendon, which I had the honor to read to you, in regard to the Central American question.

I also send you a copy of the opinion of the Queen's advocate, in relation to the construction of the 1st article of the treaty of April, 1850, of which I spoke to you.

I would desire that the communication of these papers should be regarded, for the present, as confidential.

In compliance with your wish, I send you all the documents of which I am in possession in regard to the proposed canal, from ocean to ocean, by the Isthmus of Darien; these are, the engineers' report, his journal, a map of Central America, with notes and a prospectus of the company.

Believe me, my dear sir, with much respect, yours very faithfully,

JOHN F. CRAMPTON.

Hon. W. L. MARCY, &c., &c.

[INCLOSURE NO. 1.]

(Mr. Harding to the Earl of Clarendon.)

DOCTORS' COMMONS,

April 15, 1853.

MY LORD: I am honored with your lordship's commands, signified in Mr. Addington's letter of the 7th instant, stating that he was directed to transmit to me a despatch from Mr. Crampton, her Majesty's minister at Washington, enclosing a report of a speech made in the Senate of the United States by Mr. Clayton, by whom, when secretary of state for the United States, a treaty for the construction of an interoceanic ship-canal between the Atlantic and Pacific oceans, across the isthmus of Nicaragua, was signed with Sir Henry Bulwer, at that time her Majesty's minister at Washington, with reference to the construction put by Mr. Clayton upon the 1st article of that treaty, namely that Great Britain is thereby prohibited from protecting by force of arms any State in Central America, notwithstanding any alliance between her Majesty and either of those States, Mr. Addington is pleased to request that I would report to your lordship my opinion upon the interpretation given by Mr. Clayton to the provisions of that article.

In obedience to your lordship's commands, I have taken the matter into consideration, and have the honor to report that I am of opinion that the interpretation given by Mr. Clayton to the provisions of the 1st article of the enclosed treaty, (convention signed at Washington April 19, 1850,) is in some respects incorrect.

His statement that Great Britain cannot place "an armed soldier on the territory without violating the treaty" is, in my opinion, incorrect; and I can see nothing in the treaty which affords any foundation or color for such a statement. The first article expressly recognizes the fact that Great Britain has and may have alliances with, and affords and may afford, protection to States and people in Central America, and only stipulates that neither shall be made use of for the particular purposes therein forbidden, and the maxim of construction: "*Expressio unis est exclusio alterius*," applies to this article.

Great Britain, therefore, may, in my opinion, protect any State or people (including Indian tribes) in Central America, even by force of arms, if needful, without violating the treaty, provided only that she, in affording such protection, wholly abstains from occupying, fortifying, colonizing, or assuming, or exercising any dominion beyond her own territory in Central America. Neither does there appear to me to be anything in the treaty which would necessarily prevent Great Britain from sending a fleet or army, if necessary, into any part of Central America, or from conducting any naval or military operations, either aggressive or defensive, and either alone or in alliance with any other nations or States, in any part of Central America. She may certainly do so if she abstains

from "occupying" or "fortifying, or assuming or exercising dominion" therein beyond her own territory.

There is not in the treaty any stipulation (for instance) that Great Britain shall abstain from preventing, by force of arms, other nations from occupying, or fortifying, or assuming dominion over any portion of Central America; or that she shall not destroy such fortifications, or subvert such dominion if once established therein.

I understand Mr. Clayton, also, to assert that, by the treaty, Great Britain "has abandoned all dominion in the whole of Central America," which assertion is, in my opinion, incorrect, and at variance with the fact, at least as regards Belize and its dependencies, if, indeed, this exception was not intended by him.

I have, &c.,

J. D. HARDING.

The Earl of CLARENDON, &c.

[INCLOSURE NO. 2.]

(Lord Clarendon to Mr. Crampton.)

FOREIGN OFFICE,

April 29, 1853.

SIR: I have received and laid before the queen your dispatch No. —, in which you describe the occurrences which had taken place at Greytown, in the month of February, and in which the commander of the United States ship of war *Cyane* had taken a conspicuous part. Those occurrences, like all recent proceedings connected with Greytown, and the settlement of the Central American question, are of a complicated and not very intelligible nature; but it is unnecessary that I should, at the present moment, enter into a consideration of their details. It will be sufficient to say that her Majesty's government deeply regret what has happened at Greytown, as tending to complicate still further a question already sufficiently embarrassing and difficult of solution.

However questionable in law the retention of the possession of Punta Arenas by the Accessory Transit Company may have been, it is to be regretted that the town council of Greytown should have proceeded to acts of forcible ejection against that company, and, on the other hand, however justifiable may have been the interposition of the commander of the *Cyane* to prevent acts of violence against the company, her Majesty's government cannot but consider that that officer should in the first instance, at least, have confined that interposition to a warning to the town council of Greytown to desist from those forcible proceedings, under pain of compelling him, if they were persisted in, to interfere by force of arms in protection of the company, until the question

of lawful or unlawful occupancy should have been fairly decided. Her Majesty's government have no doubt that Capt. Hollins acted with perfect honesty of intention, and to the best of his judgment, in a situation of much difficulty; but they consider that in landing an armed force and taking actual possession of territory, if not demonstrably belonging to, at least claimed, with every appearance of right by the *de facto* council of Greytown, many members of which were United States citizens, he acted in a manner not warranted by his instructions. Certain, at all events, it is, that if the commander of an English ship-of-war had acted in similar circumstances like the United States commander, but one voice of condemnation of such a proceeding would have resounded from one end of the United States to the other.

I have but little doubt that before this dispatch can reach you, you will have expressed an opinion in this sense to the United States government. If you should not, however, have done so, I have no desire that you will forthwith, in temperate terms, make known the feelings and views of her Majesty's government to the United States Secretary of State; but in so doing you will be careful to say, that under the peculiar circumstances in which Capt. Hollins was placed, her Majesty's government are not disposed to condemn his conduct. They merely wish to express their regret that he should have thought it necessary to put his measures of coercion against the constituted authorities of Greytown to the extent to which he carried them. And they further wish that stringent instructions should be issued to the United States naval commanders on that station to abstain carefully and constantly from all acts of force which may tend to weaken the authority of the *de facto* government of Greytown, which has been temporarily established by the mutual consent, and under the protection, of the governments of Great Britain and the United States.

But her Majesty's government more especially desires to impress, in the most earnest manner, on the government of the United States, the paramount importance of finally settling the hazardous question of the future position of Greytown and the Mosquito kingdom and Central America generally, a question fraught with embarrassment and even danger, which cannot fail to increase daily so long as the points at issue remain in abeyance.

We have already made the fairest proposals to the United States government for the settlement of this important matter, and we are prepared to carry out those proposals in perfect sincerity of purpose, whenever the United States government may think proper to enter upon the question with us. We the more especially desire that these negotiations should not be delayed, because we have of late but too clearly seen how completely the right of the question at issue and the intentions of Great Britain, may be misunderstood and misrepresented in the United States, until the matter be finally disposed of by a convention or formal agreement between Great Britain and the United States in concert, if practicable, with the Central American

States more nearly concerned in the question, but, if not practicable without such concert, Great Britain must necessarily retain the position which she has always held with regard to Mosquito, and which the convention of 1850 was calculated and intended, when practicably carried out, to modify, but which, as its provisions have not been carried out, it has not as yet altered. Great Britain must also continue under the same conditions to assert the title of Mosquito to those boundaries which have always been claimed by that territory, and in so asserting those boundaries Great Britain must still repel any aggression within those limits which may be committed by Nicaragua, Honduras, or any other Central American power.

But, so far from being desirous of assuming voluntarily this attitude of protector, her Majesty's government anxiously wish to be relieved from so irksome and embarrassing a position by an honorable act of settlement which shall dispose of the question forever.

You will read this dispatch to the United States Secretary of State or to the President, if desired, and you will urge the President and the Secretary of State to lose no time in meeting our views for friendly disposing of a question, which if suffered to remain open, cannot fail to be productive of serious danger to both countries. I am, &c.,

CLARENDON.

33d Congress, 1st Session.
Senate Ex. Doc. No. 13.
In Vol. 4.

27th May, 1853.

(Lord Clarendon to Mr. Crampton.)

FOREIGN OFFICE, May 27, 1853.

SIR: As great misconception appears to prevail, not only among the people of the United States, but also among persons placed in high and responsible situations in the government of the country, with regard to the true nature of the engagements into which Great Britain entered, by the convention of Washington, of April 19th, 1850, with respect to her present and future relations with Mosquito and the other nations of Central America, and as that misconception if not immediately corrected, might lead to serious misunderstanding between Great Britain and the United States, I think it highly desirable that that question should, without delay, be put upon its right footing, by a clear and distinct explanation of the view which her Majesty's government takes of it, and of the conduct which they intend to pursue with regard to it.

The article (1) in the treaty which treats of this matter, runs thus:

“The governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will erect or maintain ‘any fortification commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua; Costa Rica, or the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, nor any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying or fortifying, or colonizing Nicaragua, Costa Rica, or the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same.’ ”

To every stipulation contained in this article, her Majesty's government will faithfully adhere. They will neither seek to obtain any exclusive control over the ship canal, if ever formed, nor will they erect any fortification commanding, or in the vicinity of that canal; nor will occupy, or fortify, or colonize, or assume, or exercise any dominion over any part of Central America; nor will they make use of any protection, which they afford or may afford, or any alliance which they have or may have, to, or with any State or people, for the purpose of occupying, fortifying, or colonizing any part of Central America, or of assuming or exercising dominion over the same.

All these engagements Great Britain will religiously keep, as she does not doubt that they will be religiously kept by the United States. But Great Britain has nowhere in the treaty of April, 1850, renounced, nor ever had any intention to renounce, the full and absolute right which she possesses over her own lawful territories in Central America, such as that designation was distinctly understood and declared by the negotiators of the treaty; nor has Great Britain renounced by the treaty the protection which she has for centuries past afforded and still affords, to the Mosquito territory. With a view to relieve the question of the Mosquito territory of whatever there may be of indefinite about it, and to place it upon a clear and stable footing which will be equally advantageous to Mosquito itself, and to all the powers which are in any way connected with or concerned in it, her Majesty's government, have already, on many occasions within the last twelve months, made overtures of the fairest and most liberal and practical character to the United States govern-

ment, inviting that government to go hand in hand with the government of Great Britain, in devising and establishing a scheme of adjustment by which the affairs of Central America, Mosquito included, shall be satisfactorily and permanently settled, and the honor of Great Britain, an ancient protector of Mosquito, shall be preserved intact.

Her Majesty's government are still ready and desirous, at any moment, to enter into friendly communication with the United States government on this important matter ; and they are of opinion that the sooner such negotiation is opened and terminated the better it will be for all parties concerned, and the greater will be the security for the maintenance of the friendly relations which now so happily subsist between Great Britain and the United States.

But until such settlement be finally concluded it is obvious that Great Britain cannot abandon her present position with regard to Mosquito, nor can she permit either Nicaragua or Honduras to assert, and still less to attempt to establish by force of arms, over any part of Mosquito, a right of possession which Great Britain has always denied, and still denies. And if either Nicaragua or Honduras were still to continue to make aggressions on the Mosquito territory with that object, it must be at their own peril.

Such are the views which her Majesty's government entertain with respect to Central America, as affected by the treaty of Washington of the 19th of April, 1850, and such is the course of conduct which her Majesty's Government propose to pursue with respect to that country, and to the various questions which have arisen, or may arise under the treaty. I will, however, add that her Majesty's government have no intention of disturbing, or departing in any way from, the arrangements entered into between the two governments for the maintenance of the *de facto* government and position of Greytown.

You will read the despatch to the United States Secretary of State, and you will, at the same time, repeat to him the earnest desire which is felt by her Majesty's government to proceed throughout the whole of this matter cordially and in the most unreserved manner with the government of the United States.

I am, with great truth and regard, sir, your most obedient humble servant,

CLARENDON.

33d Congress, 1st Session.
Senate Ex. Doc. No. 13.
In Vol. 4.

9th June, 1853.

(Mr. Marcy to Mr. Ingersoll.)

DEPARTMENT OF STATE,
WASHINGTON, June 9, 1853.

SIR: Some days since, Mr. Crampton, her Britannic Majesty's minister, read to me a dispatch of the 29th of April last, addressed to him by Lord Clarendon, her Majesty's principal secretary of state for foreign affairs, relative to the occurrences in March last, at San Juan (called Greytown in that dispatch). Having afterwards been furnished by Mr. Crampton with a copy of the dispatch, the President has been made acquainted with the views which it presents. He does not discover in those occurrences, and if fully known to her Majesty's government, he presumes it would not discover anything that could give rise to the apprehension of Lord Clarendon, that they tend "to complicate still further a question already sufficiently embarrassing and difficult of solution," the Central American question. As the President has not seen anything to disapprove in the proceedings of Captain Hollins, on the occasion referred to, he has instructed me to communicate his views to you on that subject, in order that they may be presented to her Majesty's government; and he is quite confident that the transaction at San Juan, when all the facts in relation to it are known will appear in a light very different from that in which it has been viewed by Lord Clarendon. There is probably some difference of opinion between the two governments as to the right of the Accessory Transit Company to retain possession of Punta Arenas against the people of San Juan. The dwellers at that place were not, when these occurrences happened, and, as the President believes, never were, in actual possession of Punta Arenas; nor, as the case is understood here have they any title to it, or any right to disturb that company in the occupancy thereof.

If this point of land is within the territorial limits of Nicaragua, as that republic claims it to be, the right of the Accessory Transit Company can hardly be drawn in question. It is derived from an express grant in their charter from the government of Nicaragua. If, on the other hand, it is within the territorial limits of Costa Rica, as that State asserts, the company can retain their possession, as against the people at San Juan, who do not pretend to hold the

town of San Juan, or any other property, by grant or permission from the government of Costa Rica.

The United States cannot recognize as valid any title set up by the people at San Juan, derived from the Mosquito Indians. It concedes to this tribe of Indians only a possessory right—a right to occupy and use for themselves the country in their possession, but not the right of sovereignty or eminent domain over it.

It is not now made known, for the first time, to her Majesty's government, that the United States denies that these Indians have any sovereignty over the country they occupy. Our government does not make—nor does it perceive any good reason for making—any distinction between this tribe of savages and those which occupied parts of our territories, or the territories of the British provinces in North America. I am aware that her Majesty's government regard the Mosquito Indians as an exceptional case to the rule generally acted on by itself, as well as other nations; but in this claim the United States has never acquiesced. It is not proposed, on this occasion, to discuss this question; for, however decided, it cannot change the aspect of the transaction alluded to. It is not probable that any attempt will be made to claim for the people at San Juan any authority over Punta Arenas—derived from the Mosquito Indians, even if it were possible to invest them with sovereign authority over the country they have occupied. Punta Arenas, it will be recollected, is on the southern bank of the river San Juan. At the time when the Accessory Transit Company took possession of it, there was scarcely the foreshadowing of a pretension to a claim for these Indians to any territory whatever on the south side of that river.

With such a title, and actual possession under it, by the Accessory Transit Company, the extraordinary proceedings of the people at San Juan to destroy the company's property at Punta Arenas seems to me to deserve no countenance from any quarter; nor does the assistance rendered to the company, being composed of citizens of the United States, by the commanding officer of one of our national vessels, merit rebuke or require justification.

I am quite sure her Majesty's Secretary of State would not have commented as he has upon the transaction, if all the facts had been known to him. The main, if not the only ground of objection presented by her Majesty's government to the conduct of the commander of the *Cyane*, is not, as I understand the despatch of Lord Clarendon, that Captain Hollins interposed to prevent acts of violence from being perpetrated against the company, "but that he

did not, in the first instance, at least," confirm "that interposition to a *warning* to the town council of Greytown to desist from those forcible proceedings, under pain of compelling him, if they were persisted in, to interfere by force of arms, in protection of the company, until the question of lawful or unlawful occupancy should have been fairly decided," Lord Clarendon assumes that no such warning was given; and the omission to give it appears to be the only ground for his animadversions on the conduct of the commander of the *Cyane*. This ground is entirely swept away by the facts of the case. The *warning* to the full extent suggested *was* given to the town council of San Juan, over and over again. The day before that fixed on for the demolition of the buildings on Punta Arenas by the people at San Juan, Captain Hollins, hearing of their intention to commit that act of violence, sent Theodore P. Green, his first lieutenant, on shore, with directions to inform the people of San Juan that if they attempted to carry their resolution to destroy the property at Punta Arenas into effect, he should resist them by force. Lieutenant Green gave this warning to the mayor and common council, while in session at their council chamber. He in fact, did all that Lord Clarendon suggests as proper to have been done prior to an allowable interposition by an armed force. But Captain Hollins' precautionary steps went much further. In the morning of the same day on which the attempt was made to destroy the property at Punta Arenas by the people of San Juan, being informed that they did not intend to heed this warning and desist, but were preparing to execute the threatened outrage, he went himself on shore, and in person to the common council, then in session, and notified them "that he should be compelled to put a stop to any depredations they might attempt upon the property of the Accessory Transit Company." Captain Hollins' efforts to prevent the violent proceeding of the people at San Juan did not cease with this twice repeated "warning"; but, after his return on board of the *Cyane*, he issued a written warning, addressed to the mayor of that place, of which the following is a correct copy:

11 MARCH, 1853.

UNITED STATES SHIP *Cyane*, HARBOR OF
SAN JUAN DEL NORTE, OR GREYTOWN,

MARCH 11, 1853.

SIR: After the interview I had with your "honor" this morning before your honorable council assembled, I have to state, most

respectfully, that I cannot permit any depredations on the property of the Accessory Transit Company whose depot is located upon Punta Arenas, at the entrance of this harbor.

I am, very respectfully, your obedient servant,

GEO. N. HOLLINS,
Commander U. S. S. *Cyane*.

To his Honor, the MAYOR of San Juan Del Norte, or Greytown,
Nicaragua.

These facts, when brought to its notice, must, as the President believes, convince her Majesty's government, that there is no cause for taking the exception which it has taken to Captain Hollins' conduct at San Juan in March last; they must remove from Lord Clarendon's mind all feelings of regret, and all apprehensions that the occurrences to which he refers will, in any way complicate "the already sufficiently embarrassing and difficult question" between the two governments in regard to Central America.

The President considers it to have been the unquestionable duty of the commander of the *Cyane* to afford the protection he did to the Accessory Transit Company against the threatened outrage of the people at San Juan; and he cannot discover anything in the manner of performing that duty to which any exception ought to be taken.

If there be anything in the transactions at San Juan at that time to be regretted, it is the course which the commander of the British steamer *Geyser* saw fit to pursue, in regard to this movement of the populace at that place, a short time previous to that of the 11th March, against the servants and property of the Accessory Transit Company, on Punta Arenas. On the evening previous to the day when an attack upon both was made by a party from San Juan, the captain of the *Geyser* was at anchor in the harbor, and was notified by the company's agent of the intended attack the next day on the property of that company at Punta Arenas; but, instead of interposing to prevent the meditated destruction of it, or to dissuade the reckless men engaged in that project, from an act so outrageous—so likely to lead to violence and civil confusion—he departed temporarily from the port, leaving the servants and property of the company at the mercy of their assailants. It is reasonable to conclude that, if the kind offices of that officer had been then vigorously interposed, and his departure from the port at that crisis had not given some plausibility to the inference—doubtless unjust towards

Captain Wilson—that he did not disapprove of the movement, no force would have been required to prevent difficulties at that or any subsequent period.

It is proper to say, in conclusion, that the President does not authorize me to say in reply to the dispatch of her Britannic Majesty's principle Secretary of State for Foreign Affairs, anything which may be construed into a recognition on his part of the claim set up by the people of San Juan to sovereign authority in themselves over any territory whatever, or to any municipal or corporate powers, or political organization derogatory to the sovereign rights of either Nicaragua or Costa Rica; nor does he regard any instructions heretofore issued from this or the Navy Department to our naval officers for the temporary recognition of an authority for the mere purpose of preserving the public peace and punishing wrong doers, by the anomalous settlement at San Juan as sanctioning the pretensions of the people of that place to be considered a *de facto* government, independent of the State within the territorial limits of which the town of San Juan is situated,

In order to apprise her Majesty's government of the views of the President in regard to the occurrences at San Juan in March last, you will read this dispatch to the Secretary of State for Foreign Affairs, and also furnish him with a copy of it, if a copy should be requested.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JOSEPH R. INGERSOLL, Esq., &c.

34th Congress, 1st Session.
Senate Ex. Doc. No. 1.
In Vol. 1, Part 1.
Pages 42-48.

2d July, 1853.

(Mr. Marcy to Mr. Buchanan.)

[*Extract.*]

No. 2.]

DEPARTMENT OF STATE,
WASHINGTON, July 2, 1853.

SIR: * * * * * * * *

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Great Britain, for a long period, has had possession of a district of country on the shores of the Bay of Honduras, called "the

Belize." The right she has to hold it is derived from a grant by Spain; and this right is limited to a single purpose, with an express prohibition against using it for any other. A possession so restricted as to its use could never be considered a British colony. While she confines herself to the boundaries specified in the treaties with Spain, in 1783 and 1786, and uses the district or country described only for the purposes stipulated therein, we have no right to complain that she is infringing our policy; but when she extends her occupancy by encroachments far beyond the prescribed bounds and changes its tenure by exercising over it civil authority, a very different character is given to this settlement; it then becomes a new colony on this continent.

Since the acquisition of California, Great Britain has manifested a more matured design to change this Spanish license to cut dye-wood and mahogany at the Belize into a British dominion. The object of such change cannot be misunderstood, nor will it be disregarded by this government. The character of the British settlement at the Belize is explicitly shown by an authority which will not be controverted or questioned by the government of Great Britain. This authority is no other than the parliament of the United Kingdom. In two acts, one passed in 1817, and the other in 1819, it is admitted that the Belize is not within the British dominions. In these acts provision is made for the punishment of crimes committed at Belize which otherwise could not be punished by any existing law, because Belize, as expressly alleged, is not a British dominion. In 1826, Great Britain renewed, in her treaty with Mexico, the special grant made to her by Spain in the treaties of 1783 and 1786, to enter into and occupy the Belize upon the same terms and with the same restrictions as those imposed upon her by Spain. The United States, while they concede that Great Britain has rights in the Belize, positively deny that the Belize is a British province, or any part of the British dominions; and in maintaining the policy referred to, they are bound to resist any attempt to convert it into a British colony.

The protectorate which Great Britain has assumed over the Mosquito Indians is a most palpable infringement of her treaties with Spain, to which reference has just been made; and the authority she is there exercising, under pretence of this protectorate, is in derogation of the sovereign rights of several of the Central America States, and contrary to the manifest spirit and intention of the treaty of April 19, 1850, with the United States.

Though, ostensibly, the direct object of the Clayton and Bulwer treaty was to guarantee the free and common use of the contemplated ship canal across the Isthmus of Darien, and to secure such use to all nations by mutual treaty stipulations to that effect, there were other and higher important objects sought to be accomplished by that convention. The stipulation regarded most of all, by the United States, is that for discontinuing the use of her assumed protectorate of the Mosquito Indians, and with it the removal of all pretext whatever for interfering with the territorial arrangements which the Central American States may wish to make among themselves. It was the intention, as it is obviously the import, of the treaty of April 19, 1850, to place Great Britain under an obligation to cease her interpositions in the affairs of Central America, and to confine herself to the enjoyment of her limited rights in the Belize. She has, by this treaty of 1850, obligated herself not to occupy or colonize any part of Central America, or to exercise any dominion therein. Notwithstanding these stipulations, she still asserts the right to hold possession of, and to exercise control over large districts of that country and important islands in the Bay of Honduras, the unquestionable appendages of the Central American States. This jurisdiction is not less mischievous in its effects, nor less objectionable to us, because it is covertly exercised (partly, at least) in the name of a miserable tribe of Indians, who have, in reality, no political organization, no actual government, not even the semblance of one, except that which is created by British authority and upheld by British power.

This anomalous state of things is exceedingly annoying to the States of Central America, and but little less so to the United States; for through the Bay of Honduras and across some of these States lies one of the most desirable routes to our possessions on the Pacific. This interference, it will be recollected, did not assume a marked character until after our acquisition of California.

Great Britain should be frankly assured that the policy to which I have alluded, and to which the United States mean to adhere, is exclusively political. As relates to commerce, this government neither aims at nor desires any advantage, in our intercourse with the nations on this continent, which it would not willingly see extended to the whole world.

The object which it is hoped you may be able to accomplish is to induce Great Britain to withdraw from all control over the territories and islands of Central America, and, if possible, over the

Belize also, and to abstain from intermeddling with the political affairs of the governments and people in that region of the world. This object is the more earnestly desired by the United States, as it is apparent that the tendency of events in that quarter is to give a foothold to British power there, in contravention of the policy which this government is resolved to sustain.

With your ample knowledge of the facts it is believed that it will be easy for you to satisfy the government of Great Britain that it has no right to intervene in the political affairs of Central America, founded upon any dominion she can fairly claim in any part thereof, and that no obligation of duty or interest is imposed upon her to become a volunteer in the matter.

It is true she has some rights, as I have before stated, in the Belize, but when restricted to proper limits, no part of it is in Central America. These rights are, however, very few, as will be perceived by the second and third articles of the treaty between her and Spain, dated the 14th of July, 1786. The second article defines the extent of the district upon which British subjects may enter for the purposes specified in the third article, which contains an express admission that the Belize then belonged to the crown of Spain; and in it Great Britain stipulates in no ambiguous terms that her subjects, who have the right to enter it to cut dye-wood and mahogany, shall not use this limited right as a pretext for establishing "in that country any plantation of sugar, coffee, cacao, or other kind of articles, or any kind of fabric or manufacture, by means of mills or machinery, whatsoever," with the exception of saw mills for cutting the wood which they have permission to take from that district of country. To enter into the country upon such conditions for the single purpose granted, the British right cannot be well questioned; but this right is understood to be now of very little value, and, possibly, as a matter of interest and good policy, Great Britain may be willing to renounce it entirely; but her pretensions beyond this right cannot be regarded in any other light than as encroachments which ought to be abandoned. To show that her privilege is thus circumscribed, nothing more is necessary than to read the first article of the treaty to which I have alluded. Though a labored attempt has been made to pervert it, the language is too precise and explicit to give plausibility to such an effort.

That article stipulates (I quote the language of the treaty) that "his Britannic majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the

country of the Mosquitos, as well as the continent in general and the islands adjacent, without exception, situated beyond the line hereinafter described as what ought to be the frontier or the extent of country granted by his Catholic majesty to the English for the uses specified in the 3d article of the present convention, and in addition to the country already granted to them (the Belize) in virtue of the stipulations agreed upon by the commissioners of the two crowns in 1783."

After reading the treaties with Spain of 1783 and 1786, in which Great Britain renounces, in terms the most explicit and comprehensive in the English language, all right to any territorial possessions in any part of Central America, all sovereign rights in behalf of the Mosquitos, and all claim to a protectorate over that horde of savages, it would seem to be useless to go beyond those treaties for facts to explode the pretensions she now asserts for herself in regard to this protectorate. Clear as both of these treaties are against such pretensions, it is nevertheless true that one of her Britannic majesty's late principal secretaries of state for foreign affairs, Lord Palmerston, has endeavored to pervert, and by construction to render them meaningless, in the same manner that her present secretary attempts to render ineffective the treaty with the United States of the 19th of April, 1850. The boldness of the attempt with respect to the treaty of 1786, and its ill success, is shown by a proceeding in relation thereto in the British Parliament within one year after it was concluded.

The record of this proceeding is not found in the more general repository of parliamentary debates, "Hansard's Collection," and it could not have been in the recollection of Lord Palmerston when he wrote his famous letter upon this treaty and that of 1783, addressed to Señor Castillon, in 1849. As this proceeding shows the groundlessness of the claim then, as now, set up to this protectorate, and all other British claims in Central America, I deem it proper to present herein a succinct account of it.

On the 26th of March, 1787, a motion was made in the House of Peers by Lord Rawdon, "that the terms of the convention of July 14th, 1786, do not meet the favorable opinion of this House." On this motion a long debate ensued between Lords Rawdon, Carlisle, Stormant, Hawke, and Porchester, in support of the motion, and the Duke of Manchester, who negotiated the treaty of 1783, the Marquis of Carmarthen, secretary for foreign affairs, who negotiated the convention of 1786, and the Lord Chancellor, the celebrated Thurlow.

Lord Rawdon, on introducing his motion, stated " that the Mosquito shore, given up to Spain by the treaty of 1786, had been for more than a century in the possession of Great Britain; that it consisted of a territory of between four and five hundred miles in length, and was nearly of the depth of one hundred miles inland from the sea; that there were on it various settlements, and that the residents, at the time of its cession, consisted of near one thousand five hundred British subjects, including whites, male and female, persons of mixed color, and their slaves; that a regular form of government had been established on it many years since consisting of a council, &c.; that it was a settlement of great value and importance to this country, and that our claim to it was as good as our claim to the island of Jamaica." In support of these assertions, his lordship produced various documents from the governor and assembly of the island of Jamaica and other corroborating papers. In exchange for this valuable settlement, he said, the British ministers had contented themselves with accepting a narrow slip of territory of between eleven and twelve miles in extent only. Lord Rawdon then proceeded to censure the ministers, especially for the fourteenth article of the convention, by which the King of Spain promises not to exercise any acts of severity against the Mosquitos inhabiting in part the countries which are to be evacuated on account of the connexions which may have subsisted between the said Indians and the English, which his lordship declared to be "a most degrading humiliation of Great Britain."

The Earl of Carlisle, in the same manner, spoke of the Mosquito shore as a settlement that had been in the undisturbed possession of Great Britain for more than a century. He considered the ministers especially censurable " for having hung up the humiliation of Great Britain in every court in Europe, in an article so degrading to the national honor as the 14th article of the convention, because there could be no secret reason for such a mortifying sacrifice of the spirit of the country." Lord Stormant, likewise, particularly enlarged on the 14th article as an unnecessary degradation of the country; and he said " the Mosquito Indians had proved themselves faithful allies, and had invariably adhered to the interests of Great Britain." He contended that " they were an independent people, and that we had no right whatever to deliver them over to the Spanish yoke."

On the part of the ministry, the Duke of Manchester and the Marquis of Carmarthen said very little more than in support of their

own personal agency in the treaty of 1783, and the convention of 1786; the defence being left to the lord chancellor, the champion of the administration, who left the wool-sack and in a most masterly manner answered the various arguments that had been urged in support of the motion.

He began with declaring that "he had expected to have heard the question spoken to with that degree of explicitness and candor that belonged to it. He had looked for more accuracy of description, in point of geographical character, than had been attempted. The Mosquito shore had been talked of as a tract of country extending between four and five hundred miles, without the smallest mention of the swamps and morasses with which it was interspersed, nor any allowance for the parts of it that were actually impossible to be either cultivated or inhabited. With regard to settlements, it would be imagined, by those who were strangers to the fact, that there had been a regular government, a regular council, and established laws peculiar to the territory; when the fact was, there neither had existed one nor the other." His lordship went into the history of the settlement, tracing it down from the year 1650 to the year 1777, mentioning Lord Godolphin's treaty, and all its circumstances, and deducing arguments from each fact he mentioned to prove that the Mosquito shore never had been fairly deemed to be a British settlement; but that a detachment of soldiers had been landed from the island of Jamaica, who had erected fortifications, which had been afterwards abandoned by order of the government at home. He instanced the transactions on the subject of the peace of Paris, in 1763, when Governor Lyttleton governed Jamaica, and enlarged upon them to show that this country, by the peace of Paris, had renounced whatever claim she might before that period have fancied she had a right to maintain; and had given a fresh proof of her having done so, in the year 1777, when Lord George Germaine, the secretary of the American department, sent out Mr. Lawrie to the Mosquito shore to see that the stipulations of that treaty between this country and Spain were carried fully into execution. His lordship enlarged very much on these particulars; and after enforcing and applying them to the arguments that had been urged in defence of the motion, proceeded to notice what Lord Carlisle had said on the delicacy of questions of that sort, declaring "that he had been happy to hear the matter so judiciously observed upon. His lordship said he should have been extremely glad if the whole grounds of the trans-

action could, with prudence and propriety, have been gone into; but as that could not be done, he must meet the matter as he found it. With regard to the degradation of the country that the 14th article was pretended to hold out, he denied the fact. The Mosquitos were not our allies, they were not a people we were bound by treaty to protect, nor were there anything like the number of British subjects there that had been stated; the number having been, according to the last report from thence, only 120 men, and 16 women. The fact was, we had procured (by contract, if the noble lord pleased) a stipulation that the king of Spain would not punish those British subjects, and the Mosquitos, who had possessed themselves improperly of the rights belonging to the Spanish crown, and, in consequence of such irregular possession, had persisted for a course of time, but with frequent interruption, in the enjoyment of those rights. His lordship repelled the argument that the settlement was a regular and legal settlement with some sort of indignation; and, so far from agreeing, as had been contended, that we had uniformly remained in the quiet and unquestionable possession of our claim to the territory, he called upon the noble Viscount Stormant to declare, as a man of honor, whether he did not know the contrary."

The purport of Lord Stormant's answer is not given. Lord Rawdon, however, defended his motion, and produced some documents, by General Dalling, when governor of Jamaica, to prove that a superintendent had been sent over to the settlement on the Mosquito shore, at that time, with a view to form a government.

The lord chancellor replied that he was aware of the application for a charter; but he wished the noble lord had mentioned the answer that was given to that application when it was made. His lordship said "the having sent a superintendent over with a view to the establishment of a regular council, &c., did not, by any means, prove that the government at home had countenanced the scheme. He referred the noble lord to what had been before stated relative to the conduct of Governor Lyttleton, in 1763, and of Lord George Germaine, in 1777, as an ample proof that, let what would have been the state of the Mosquito shore, or the opinion of this country, in 1744 or 1748, the idea of settling there had been changed completely since, and the fortifications recently abandoned and withdrawn." After some further debate, (the particulars of which are not given,) the question was taken and decided against Lord Rawdon's

motion to condemn the convention by a vote of fifty-three to seventeen.*

Nothing could be more fatal—not the treaty of 1786 itself—to the pretensions set up by Great Britain for herself and the Mosquito Indians than this debate and the vote on the motion to censure the treaty of 1786. The lords who supported the motion of censure on the administration, for having made the treaty, assert, it is true, that Great Britain and her ally, the Mosquitos, had rights before the treaty of 1786, but admit that these rights were given up by that treaty. This position destroys the pretensions of Great Britain, both for herself and the Mosquitos, of having rights there after that treaty. On the other hand, Lord Thurlow, in his defence of the administration, denied all claims on the part of the Mosquito Indians, as well as on the part of Great Britain, except what was given by the clause relative to the Belize. His position, which was concurred in by nearly the whole house of lords, is therefore equally fatal to these pretensions of the British government. In one view or the other, the vote of the whole house of lords is an acknowledgment that Great Britain, after 1786, had no rights whatever in Central America, or in that vicinity, except the limited usufruct to a small tract of country—the Belize—not claimed as a part of Central America, and that the Mosquito Indians had no sovereign rights to any territory whatever.

The acts of parliament show that Great Britain had no dominion there—none even in the Belize—and by four treaties, three with Spain and one with the United States, (that of the 19th of April, 1850,) she has precluded herself from interposing in the affairs of Central America. I therefore trust you will encounter but little difficulty in inducing her to abandon unfounded pretensions, and to respect these solemn treaty stipulations.

The whole Central American question, so far as Great Britain has seen fit to connect herself with it, is entirely confided to your management, under such instructions as you may from time to time desire, or such as the President may consider himself called upon to furnish, in the progress of the discussions which may arise thereon.

* * * * *

I am, sir, respectfully, your obedient servant,

WM. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c.

* This debate is found more at large in Parliamentary Register, 1787, vol. 22.

33d Congress, 1st Session.
Senate Ex. Doc. 13.
Vol. 4, pp. 11-14.

22d July, 1853.

(Lord Clarendon to Mr. Crampton.)

FOREIGN OFFICE, July 22, 1853.

SIR: I transmit to you herewith the copy of a dispatch addressed by the United States Secretary of State to the United States Minister in this country, which, by the direction of his government, the latter gentleman has put into my hands. That dispatch has reference to the recent occurrences at Greytown and Punta Arenas, and to the conduct of Captain Hollins, the commander of the U. States ship *Cyane* on that occasion.

The tone of that dispatch, if not hostile, is certainly not such as her Majesty's government had hoped for from the United States government after the many fair and friendly efforts which, at some sacrifice of feeling, with respect to the Mosquito country, they have for some time past made with the United States government, in order to bring about in concert with them a mutually advantageous and equitable settlement of the affairs of Central America, more especially in reference to Greytown and the Mosquito territory.

In justifying the conduct of Captain Hollins in the dispute which occurred in the month of February last, between the Accessory Transit Company and the *de facto* government of Greytown, the United States Secretary of State applies the word rebuke to the representation which, in my dispatch No. 21, of the 29th of April last, I directed you to make on the part of her Majesty's government to the government of the United States on the subject of the proceedings of that affair; but I neither rebuked nor invited a rebuke upon Captain Hollins. I merely pointed out, in temperate language, the erroneous position in which, in my view of the matter, that officer had placed himself; and in order to avoid all danger of future misunderstanding, requested that stringent instruction might be conveyed to the United States commanders on that station for the guidance of their conduct on similar occasions in a sense different from that pursued by Captain Hollins. That request was grounded on the instructions which were furnished in the spring of 1852, by the British and United States governments to their respective naval commanders in Central America, directing them to support in conjunction, and pending the negotiations for the settlement of the Central American question, the *de facto* gov-

ernment of Greytown. Now that government claimed a right to the Isthmus called Punta Arenas, over against Greytown, on the other side of the mouth of the river San Juan; and on the written request of the Accessory Transit Company, dated the 11th of June, 1851, to the effect that the company desired the use of a portion of the land on the other side of the harbor near Punta Arenas, measuring two hundred feet east to west, and four hundred feet north to south. The government of Greytown had ceded that portion of land to the company at a nominal rent, "until the land in question might be required for the purposes of the Mosquito government." This agreement, therefore, clearly shows that the Accessory Transit Company considered the land in question as dependent on Greytown, and that they were bound to evacuate it whenever requested by the government of Greytown. They were so requested in February last, and refused, and the United States commander not only supported them in that refusal, but landed an armed force to protect them against the authorities of Greytown. It was this act that her Majesty's government considered as opposed to the mutual instructions given and the understanding entered into in 1852 between the governments of Great Britain and the United States, and they instructed you accordingly to make a representation against it, and to request that fresh instructions might be sent out to prevent a recurrence of such proceedings.

Her Majesty's government fully admit that the conduct of the government of Greytown in the violent measures which they took for forcibly ejecting the Accessory Transit Company from Punta Arenas, was injudicious and intemperate, and they have made known that opinion to those authorities. But that conduct does not, in the judgment of her Majesty's government, justify the strong measures of coercion adopted by Captain Hollins against the Greytown government. In fact, nothing could, in the opinion of her Majesty's government, warrant either an United States or a British naval officer, under their mutual instructions, in landing armed men from their ships at Punta Arenas, for the protection of the Accessory Transit Company against the enforcement of the terms of a written agreement by the *de facto* government of Greytown, with which the agreement had been voluntarily made. It was competent to the United States commander to use the most urgent means of persuasion with the government of Greytown to induce them to desist from their ill-judged course of violence, but not to employ an armed force for that purpose.

Mr. Marcy observes that if, as Nicaragua asserts, Punta Arenas is within the territorial limits of Nicaragua, the right of the Accessory Transit Company can hardly be drawn in question, because they hold their charter from the government of Nicaragua. But the fact of the company having rented Punta Arenas, as above described, from Greytown by a voluntary written agreement, founded on their own application, sets this question at rest, for having acknowledged the right of Greytown, and held under that acknowledgment, the company cannot now turn around and acknowledge the opposite right of Nicaragua.

Her Majesty's government deeply regrets the language which the United States Secretary of State has thought it expedient to employ in his dispatch, in speaking of the Mosquito country and of Nicaragua. Her Majesty's government were necessarily conscious of the light in which the government of the United States has always and, it is admitted, consistently, viewed the Mosquito country. But the United States government were equally cognizant of the long standing relations of Great Britain with that country, and of the moral impossibility of her abandoning that country to its ruler, after ages of protection afforded to them, without making such terms in their favor as should be consistent with their own fair claims, and with the dignity and honor of the British crown. Under this well known difference of views, it were the more to be desired that both governments should sedulously abstain from all language calculated to bring that difference more prominently into view; and that they should, on the contrary, employ their best efforts to throw that difference into the shade, and to settle the question at issue in a manner equally beneficial and creditable to both.

I have already stated, in my dispatch, No. 36, of the 27th of May, that until the general Central American question shall have been finally determined, her Majesty's government must regard the territorial rights of Mosquito, including Greytown, (saving the *de facto* arrangement entered into with regard to the latter,) in the same light in which they have always been regarded by Great Britain; and that her Majesty's government cannot recognize any pretension on the part of Nicaragua or of Honduras to any of that territory. They must, on the contrary, continue to resist any such pretension. In repeating this declaration, however, her Majesty's government again, and in the most cordial manner, invite the United States government to join with them in devising and carrying out such an

arrangement, with regard to the Mosquito country, and Central America generally, as shall both tend to remove any chance of future misunderstanding between two great and kindred countries, and shall also afford a better prospect than now exists of bringing into the pale of political and commercial enlightenment a vast and noble region lying between the northern and southern continents of America, which, to all practical interests, is now lost to the world.

I am, &c.,

CLARENDON.

J. F. CRAMPTON, Esq., &c., &c.

Messages and Documents.
1855-1856, Part I.
Pp. 49-50.

12th September, 1853.

(Mr. Marcy to Mr. Buchanan.)

[No. 11.]

DEPARTMENT OF STATE.
WASHINGTON, September 12, 1853.

SIR: Your two dispatches, No. 3 (July 27,) and No. 4, (August 24,) have been received. I herewith transmit to you the President's full power to conclude a treaty with Great Britain in regard to the Central American questions. A copy of the dispatch of her majesty's principal secretary of state for foreign affairs to Mr. Crampton, containing the "overtures" &c., dated January 19, 1853, was forwarded to you from this department on the 30th of July last. I do not find any other document on file in the State Department containing overtures, &c., on the Central American questions, but it is probable that in the conferences between my predecessors and the British minister, in relation to the Mosquito protectorate and the affairs of San Juan, (Greytown,) overtures may have been suggested by him.

The general views of the President in regard to Central American affairs were presented in the first instructions with which you were furnished. The President did not deem it necessary to be more explicit as to the points of difference which might arise until he was fully possessed of the views of her majesty's government. The main object to be accomplished is to induce the British government to withdraw from all interference in the political affairs of Central American states and the adjacent islands.

It is quite evident, judging by communications received from

her majesty's government, particularly in regard to the difficulties at San Juan de Nicaragua, that a difference of opinion between it and the United States exists as to the construction and effect of the Clayton and Bulwer treaty, but how wide that difference is, and on what particular points it is raised, have not yet been very clearly disclosed. This difference will be, as the President presumes, fully known when these matters shall be brought by you under the consideration of the British government.

Your intimate knowledge of the subject in all its bearings, and of the general views of the President which are embodied in your instructions, will enable you to cover the whole American ground in opening the negotiation. How much will be conceded and how much contested by Great Britain remains to be seen. Until points of difference are discussed, and the views opposed to those here entertained are fully considered, the President does not deem it advisable to fix on *ultimata*. These, if desired in a more advanced state of the negotiation, will be furnished.

In relation to the Belize I believe your instructions are sufficiently explicit. To the territorial extent, and for the limited uses, described in her treaty of 1786 with Spain, Great Britain has a right to continue in possession of that country. Though the United States cannot claim as a matter of right that she shall altogether withdraw from Belize, it is a very important object to prevail on her to give up that territory, now regarded as of very little value. This government is not aware that Great Britain claims to have full sovereignty over it; but, if she does, the United States would contest that claim, and regard the assertion of it as an infringement of the Monroe doctrine—a doctrine which it is the policy of the President to maintain.

I believe Great Britain has never defined the character of her claim to possess what is called "the colony of the Bay Islands." It does not appear to be one of her organized colonies. She has not, in explicit language, claimed sovereignty over it, though her acts have indicated such a purpose. Whatever may have been her rights or pretension to rights over this colony, they were all given up, according to the view here taken of the subject, by the Clayton and Bulwer treaty.

The President cannot conceive that Great Britain can have any plausible grounds for excepting this possession from the operation of that treaty, and he is quite sure she can allege none to which he could concede; yet he thinks it the wiser course to give her an op-

portunity to explain her views thereon before presenting a solemn and formal protest against her further occupancy of that colony. The President expects that you will treat this subject in such a manner as to leave no doubt on the minds of her majesty's ministers that the abandonment of that colony will be insisted on by the United States.

It is presumed that the only part of that colony to which England will be disposed to attach much value, or have any inducement to retain, is the island of Ruatan. From an intimation made to me, it may be that she will take the position that this island does not belong to any of the Central American States, but is to be regarded in the same condition as one of the West India islands. By reference to the treaties between Great Britain and Spain, you will find this island clearly recognized as a Spanish possession, and a part of the old vice-royalty of Guatemala.

Should an attempt be made to distinguish between this island and the States of Central America, upon the ground above suggested, it is probable that more full information than we now have in regard to that subject may be obtained from, or through, Mr. Molina, the diplomatic representative near this government from Costa Rica and Guatemala. On receiving an intimation from you that further information thereon may be necessary, every effort will be here made to procure and forward it to you.

A copy of the convention of the 8th of February last will be forwarded to you.

With this will be sent a copy of the *Congressional Globe*, if it can be procured, containing the debates of the last session of Congress, and the called session of the Senate.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

26th September, 1853.

[Mr. Molina to Mr. Marcy.]

LEGATION OF COSTA RICA,
WASHINGTON, September 26, 1853.

The undersigned, minister of Costa Rica, thinks it his duty to trespass once more upon the time of the honorable Secretary of

State with reference to the long pending negotiation for the adjustment of the differences between Costa Rica and Nicaragua, and of the questions concerning the Mosquito coast.

The government of Costa Rica apprehends that there is a disposition on the part of the American government to confine the negotiation with Great Britain, that Mr. Buchanan is going to take up again in London to that part only which regards the Mosquito territory and that part of San Juan del Norte, without making any arrangement respecting the conflicting claims of Costa Rica and Nicaragua.

Heretofore the constant policy of this government has aimed at disposing of all those matters in one general settlement, in order to meet the interests of the several parties concerned; and the undersigned, with due respect for the reasons that may have suggested a change of views, does not hesitate to say, that in the opinion of his government the course formerly pursued would still be the most consistent with justice.

But should a different one be adopted, and supposing that, in consequence of an arrangement with England, the port of San Juan should be transferred to Nicaragua, the government of Costa Rica flatters itself that such a transfer shall not be made but under certain qualifications, with a view to preserve the claims of Costa Rica to one half of the same port and to the other objects in litigation, unimpaired and unprejudiced.

Since the occupation of San Juan by the Mosquitos, on the 1st of January, 1848, the position of Costa Rica, as regards her differences with Nicaragua, has become a highly disadvantageous one, owing to the support that the pretensions of the latter republic have derived from the formation and establishment of the American company holding the canal and transit charters, and from the opinions expressed in official documents in favor of Nicaragua by Mr. Squier, when he was chargé d'affaires of the United States in that country.

Hence it follows that the transfer of San Juan to Nicaragua, if done without any qualifications, would no longer be a restoration of the ancient state of things, when the contending parties (Costa Rica and Nicaragua) were both left to their own resources and titles, each of them unaided by foreign intervention; but that, on the contrary, it would operate as the consecration of a new state of things decidedly injurious for one of the parties; a result at variance with the avowed policy of this nation, which professes an equal friendship and impartial regard for each of the contending republics.

The deference shown by Costa Rica, on previous occasions, to the advice of the American government, and her readiness to terminate the existing difficulties, by any means in use among civilized nations, are circumstances which the undersigned trusts, will always be remembered as entitling that country to the regard and kind office of the United States.

On this reliance, the undersigned ventures to request that Mr. Marcy will have the goodness of addressing particular instructions, if necessary to the distinguished representative of the United States near her Britannic Majesty.

The undersigned has the honor to remain with the highest consideration, Mr. Marcy's most obedient humble servant,

F. MOLINA.

Hon. WILLIAM L. MARCY,
Secretary of State of the United States.

[*The above letter appears as Document 55, in Special Message of President, 14th February, 1856, pp. 136-137.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

14th October, 1853.

(Mr. Marcy to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, October 14, 1853.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Molina, Envoy Extraordinary and Minister Plenipotentiary of Costa Rica, of the 26th ultimo, and to assure him, in reply, that there is no just grounds for his apprehension that the rights of his government may be prejudiced or in any way disregarded by any arrangements which Mr. Buchanan may enter into with Great Britain in regard to the affairs of Central America. In several interviews with Mr. Molina, the undersigned has had occasion to explain to him the views of the government of the United States in regard to the questions of boundary and jurisdiction between the several States of Central America. This government is sincerely desirous that these States should settle these questions in an amicable manner among themselves.

Mr. Borland, the United States minister to Central America, is

instructed to use his good offices in regard to any controversies that may exist among the Central American States, but at the same time he is cautioned against any interference in these matters which may be objectionable to any one of them.

The undersigned has the honor, &c.

W. L. MARCY.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 56, in Special Message of President, 14th February, 1856, p. 137.*]

Messages and Documents.
1855-1856, Part I.
P. 50-51.

1st December, 1853.

(Mr. Marcy to Mr. Buchanan.)

[No. 21.]

DEPARTMENT OF STATE,
WASHINGTON, December 1, 1853.

SIR: Your dispatch (No. 16) of the 12th ultimo, came to hand yesterday, and was laid before the President. He approves entirely of the suggestion made by you to Lord Clarendon to place the Mosquito Indians in the same relation to Nicaragua that our own Indians sustain to the United States, since it is in strict accordance with the views of this government on the subject, as will be seen from the following extract from the Department's instructions to Mr. Borland, under date of the 17th of June last:

"Admitting these Indians to be what the United States and Nicaragua regard them—a savage tribe, having only possessory rights to the country they occupy, and not the sovereignty of it, they cannot fairly be required to yield up their actual possessions without some compensation. Might not this most troublesome element in this Central American question be removed by Nicaragua, in a way just in itself, and entirely compatible with her national honor? Let her arrange this matter as we arrange those of the same character with the Indian tribes inhabiting portions of our own territory. I think it would be proper for you to urge upon Nicaragua this view of the subject. An inconsiderable annuity secured to the Mosquitos for their right of occupancy to the country in their possession given up to Nicaragua, would, I believe, cause the British government to abandon their protectorate over them; assurance of this is given to the United States. Such a course would not, in my opinion, be an

acknowledgment directly or by implication of the rightful interference by the government of Great Britain in the Mosquito question.

The sequel of the agreement between Messrs. Webster and Crampton, about which enquiry is made by you, was an instruction to Mr. Kerr, the chargé d'affaires of the United States to Nicaragua, directing him to present the agreement to the Nicaraguan government for its assent thereto. He complied with the instruction, but the application was rejected. Mr. Walsh was also sent to the republic of Costa Rica, as a special agent of this government, with instructions to present the agreement to the consideration of the government of that republic. This he did, and it was accepted by the Costa Rican government.

The department has no spare copy of the document containing the letter of Lord Palmerston to Mr. Castellon, asked for by you; but if you will turn to the tenth volume of Executive Documents, 1st session 31st Congress, page 304, the letter referred to may there be found.

As it regards your enquiry about the number of the Mosquito Indians, I am unable to ascertain, with any degree of certainty, what that number is.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

5th December, 1853.

(Mr. Marcoleta to Mr. Marcy.)

[*Translation.*]

WASHINGTON, December 5, 1853.

On the 24th of February, 1851, the undersigned envoy extraordinary and minister plenipotentiary of the republic of Nicaragua, had the honor of addressing a communication to the Hon. Mr. Webster, then Secretary of State, the contents and solution of which were, as they are at the present time, of the greatest and utmost interest to the republic of Nicaragua.

The documents accompanying the communication aforesaid set

forth the erroneous interpretation that, in the opinion of Nicaragua, Great Britain gave to the treaty of April 19, 1850, an interpretation which the British Government maintained, or pretended, to be identical with that given to the said treaty by the government of the American Union.

The undersigned asked the honorable Secretary of State to have the kindness to inform him if such were, in fact, the deductions it had made with regard to the clauses and the spirit of said treaty. Circumstances, perhaps, prevented a reply from being given.

The undersigned is fully convinced that the Hon. W. L. Marcy appreciates, as well as the government of Nicaragua, the vital interest of the matter in question; and he hopes, therefore, that he will have the goodness to take the same into proper consideration.

The undersigned avails himself of this opportunity to have the pleasure of renewing to the honorable Secretary of State the assurance of his highest and most distinguished consideration.

J. DE MARCOLETA.

Hon. W. L. MARCY,
Secretary of State.

[*The above letter appears as Document 57, in Special Message of President, 14th February, 1856, pp. 137-138.*]

33d Congress, 1st Session.
House Ex. Doc. No. 1.
In Vol. 1, Part 1.

5th December, 1853.

(Annual Message of the President of the United States.)

WASHINGTON, D. C., December 5, 1853.

[*Extract.*]

* * * * *

"Embarrassing questions have also arisen between the two governments in regard to Central America. Great Britain has proposed to settle them by an amicable arrangement and our minister at London is instructed to enter into negotiations on that subject."

* * * * *

FRANKLIN PIERCE.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

6th December, 1853.

(Mr. Marcoleta to Mr. Marcy.)

[*Translation.*]

LEGATION OF NICARAGUA,
WASHINGTON, December 6, 1853.

On the 2d of November, 1852, a communication was sent to the Department of State, setting forth and explaining the means by which the government of Nicaragua understood and wished that the restoration of the port of *San Juan del Norte*, and of the Mosquito territory, could be duly and fully carried out; modifying, in the terms stated in that communication, the bases signed in Washington on the 30th of April of the same year, by the Hon. Daniel Webster, Secretary of State, and Mr. J. Crampton, her Britannic Majestic's minister; bases which the senate and chamber of deputies of Nicaragua did not deem it proper to sanction nor to admit, in consequence of their being in direct opposition with the rights and interests of Nicaragua.

The undersigned, envoy extraordinary and minister plenipotentiary of Nicaragua, who had the honor of addressing the aforesaid communication to Hon. Daniel Webster, has now likewise the honor of calling the attention of the Hon. W. L. Marcy to the glaring evils and injuries which the actual state of things in relation to said questions originates and occasions to the interests of a sister republic, who, with the utmost confidence, has placed and still places in the hands of the American people the custody and defence of these dear and vital interests.

One of the evils which weigh most heavily upon the State is an enormous foreign debt which the government of Nicaragua wishes to cancel; relying for that purpose upon one of the most fruitful sources of revenue which, before the British invasion, were wont to feed the public exchequer with the annual product of the port of San Juan.

It must not be understood by this, that the government contemplates re-establishing the maritime custom-house of that port; quite the contrary, the supreme director is fully convinced of the advantages which must accrue from the freedom of that port; but at the same time, he thinks it just and proper to restrain this advantage within certain bounds, in order to avoid thereby those abuses, evils

and pernicious consequences which, from the 1st of January, 1848, have been continually and palpably entailed upon the republic.

Consequently, the undersigned has received express orders to call, in a very particular manner, the attention of the American government to these and other serious evils, which it would be very tedious to detail in this place; he has been especially charged to make known to the honorable Secretary of State the wishes which the government of Nicaragua entertains, and the absolute necessity it is under to recover its unequivocal sovereignty over the Mosquito territory, and most especially over the port of San Juan del Norte, which is beyond the limits of the territory aforesaid.

In order to accomplish this object, the undersigned has the honor of renewing here to the honorable Secretary of State the conditions and sacrifices to which this government would submit, in order to do away, on its part, with the obstacles that have hitherto prevented a definite settlement of these questions.

These conditions are—

1st. To declare *San Juan del Norte* a free port.

2d. To pay, by way of indemnity, and for the extinction of any pretended title which the Mosquitos may set up, four per cent. on the net proceeds of the port for a period of five consecutive years.

3d. To designate and to pay a life pension to the prince or Mosquito chief, either at Leon, Granada, or at some other point which may be most suitable to the government.

4th. To acknowledge as lawful the *rational* grants of land which may have been made from January 1, 1848, by the actual authorities of the pretended kingdom of Mosquito, with the exception of those that are in opposition to the grants previously made by the Spanish government, by the Federal government of Central America, or by the government of Nicaragua; those that may be at variance with the rights and privileges of the canal and accessory transit companies, and those made at such points or localities as the State may want for forts, custom-houses, barracks, warehouses, arsenals, light-houses and other public edifices, such as quarantine hospitals, &c.

The government of Nicaragua understands that many grants of land have been made, with a mere mercantile or speculative object, and for insignificant considerations, the terms of which are not known, seeing that those improvements that are mostly called for in the port have not been made, and that the obstacles against the navigation of the river, where it runs into the territory of the republic, have not been removed.

The government of Nicaragua has full knowledge of irregularities and abuses which cannot and should not be sanctioned. For this reason it will only acknowledge those grants that have been made for some other object besides a mere mercantile speculation, and such as do not exceed those bounds that are compatible with reason and justice.

The government of Nicaragua is not ignorant of the difficulties and complications which these subjects involve, and, therefore, it commits and entrusts the solution of the same to the prudence and sense of justice by which the people and the government of the American Union are governed. Nor is it blind to the fact that, in order to effect a definite settlement of these matters, a certain period of time is necessary, which, unfortunately, is in direct opposition to its interests; therefore, the government would wish that, while the anxiously wished for settlement is pending, the port of *San Juan del Norte* might be restored to its original and lawful authority and sovereignty, pledging itself to carry into effect at once that portion of the grants mentioned above, accordingly as it may be deemed necessary and proper.

And in order to show by what feelings the government is actuated with regard to a brother State, that of Costa Rica, with which there happily exist, at present, the best relations, the supreme director promises that, while the pending questions concerning boundaries between the two States continue unsettled, Costa Rica shall enjoy perfect liberty of egress and ingress by the port and river of *San Juan* as far as that of *Scrapiqui*, which leads to its territory.

A commission of two individuals was formerly appointed in virtue of a gubernatorial decree; said commission is especially instructed to propose and to effect a settlement upon the most liberal bases, which will not fail to produce the desired result.

With regard to the canal and transit company, the undersigned begs to refer to his communication of November 2, 1852, inasmuch as circumstances in relation to these companies have not undergone the least variation, and because, at present, certain modifications are moreover required by mutual agreement in the original contracts.

In conclusion, the undersigned begs, with the utmost earnestness, that the honorable W. L. Marcy will be pleased to take into consideration the contents of this dispatch. He calls very particularly his attention to that point concerning which the government of Nica-

ragua has her most flattering hopes at stake, in consequence of her interests, not only material but even moral, being bound up in it. This point, of such transcendental interest, is the immediate restoration of the port of San Juan, while the questions are being settled, and the negotiations that are now pending with the government of her Britannic Majesty are being brought to a close.

Nicaragua pledges herself to give all the securities and guarantees which may be deemed necessary, and which are in accordance with the dignity of the government and of the nation. In view of these guarantees, the undersigned does not believe that any serious obstacle can be opposed to the accomplishment of her just and natural desires, from the immediate realization of which, depend, in a great manner, the welfare, the peace, the security and the good order of the republic.

The undersigned cannot do otherwise than to insist upon this main point, and to renew his request for the prompt and immediate restoration of the port of *San Juan del Norte*; confiding, as he does, in the justice, equity, as well as in the sentiments of close and cordial friendship which govern and unite the American government and people to and in favor of their sister republic of Nicaragua.

The undersigned avails himself of this opportunity to renew to the Honorable W. L. Marcy his sentiments of his high consideration.

J. DE MARCOLETA.

Hon. W. L. MARCY,
Secretary of State.

[*The above letter appears as Document 58, in Special Message of President, 14th February, 1856, pp. 138-141.*]

33d Congress, 1st Session.
Senate Journal.
P. 30.

12th December, 1853.

(Resolution of Senate.)

Mr. Carr submitted the following resolution, which was considered by unanimous consent, amended on motion by Mr. Clayton, and agreed to as follows:

Resolved: That the President be requested to inform the Senate whether any communication has been received from the British

Government or any correspondence taken place with it on any subject growing out of the Treaty of Washington of July 4, 1850 [Clayton-Bulwer Treaty], since the message of the President of the United States of January 4, 1853, made in answer to a call of the Senate of December 30, 1852; and if there has been any such communication or correspondence, and also copies of all instructions to our minister in England, and of all correspondence in relation thereto, he is requested, if compatible with the public interest, to transmit copies of the same to the Senate.

33d Congress, 1st Session.
Senate Ex. Doc. 13.
In Vol. 4.

15th December, 1853.

(Mr. Crampton to Mr. Marcy.)

WASHINGTON, December 15, 1853.

SIR: With reference to our conversation of yesterday in regard to the construction of the first article of the treaty signed at Washington on the 19th of April, 1850, I beg to state, in reply to your inquiry you then made of me, that I feel no objection to placing at your disposal the copy of the opinion of the queen's advocate on this subject, drawn up by him for the information of her Majesty's government, and which, at your request, I communicated to you, unofficially, in the course of a conversation which I had the honor of holding with you on the same subject in the month of May last.

I would remark that I was not instructed by her Majesty's government to make any official representation to the government of the United States with respect to the interpretation given to the first article of the treaty by Mr. Clayton in the Senate of the United States, the correctness of which, in some respects, is combated by the queen's advocate. As the queen's advocate's opinion, however, constitutes a clear statement of the construction of the article in question, held by her Majesty's government to be sound international law, I can perceive no good reason for withholding it from the official knowledge of the government of the United States.

I avail myself of this occasion to renew to you, sir, the assurance of my highest consideration.

JOHN F. CRAMPTON.

Hon. WILLIAM L. MARCY, &c.

[The above appears as Document 3, in Report of the Secretary of State, 31st December, 1853.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

17th December, 1853.

(Mr. Marcy to Mr. Molina.)

DEPARTMENT OF STATE,
WASHINGTON, December 17, 1853.

The undersigned Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Molina, envoy extraordinary and minister plenipotentiary of Costa Rica, of the 13th instant.

In reply, the undersigned has the honor to state, for the information of Mr. Molina, that should the Postmaster General deem it expedient to accept the proposition of the Nicaragua company for carrying the United States mail from the Atlantic coast to California, he is unable to discover any grounds for such an objection as the minister of Costa Rica has presented in that note. In employing that company for such a purpose, the United States make no decision or intimate any opinion as to the rights of either Nicaragua or Costa Rica to control the navigation of the river San Juan or the Nicaragua lake, nor do they undertake to enquire into the origin of that company's right of transit, now used by it, across the isthmus. All they know, or care to know, is that the Nicaragua company have established such a transit and constantly use it to carry passengers and merchandise over the isthmus to the Pacific coast. An agreement with it to carry the United States mail implies no expression of opinion as to which of the two States, Nicaragua or Costa Rica, has the right to grant, or has granted, the privilege of transit to that company. It is an entire mistake on the part of the minister of Costa Rica to assume that by employing the transit company to carry the mail, the United States would express, or intend to express, any opinion either in favor of or adverse to the claim of Costa Rica to control the navigation of the river San Juan or the Lake of Nicaragua. If the transit company are infringing the rights of that State, it will have the same authority to obstruct or withhold from the use of that company that navigation as well after as before a contract shall be made with it to carry the United States mail. Such a contract is not, nor is it intended to be, any interference with the rights of Costa Rica, whatever those rights may be.

Taking this view of the subject, which is the correct one, Mr. Molina will see that the acceptance by the Postmaster General of

the United States of the proposition of the company, should it be accepted, to carry the United States mail across the isthmus, affords not the slightest ground of complaint by Costa Rica that this government is in any way interposing in the dispute which exists between that State and Nicaragua as to the navigation of the river San Juan and Nicaragua lake.

In relation to the proposition referred to by M. Molina, of submitting the dispute to the arbitration of the United States, the undersigned will only say that the parties have not concurred in any such submission. If they should do so, the undersigned believes, as he has heretofore intimated to Mr. Molina, that the President would consent to act as umpire in that matter.

The undersigned, &c.

W. L. MARCY.

Señor DON FELIPE MOLINA, &c., &c., &c.

[*The above letter appears as Document 59, in Special Message of President, 14th February, 1856, pp. 141-142.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

30th December, 1853.

(Mr. Marcy to Mr. Borland.)

[*Extract.*]

[No. 8.]

DEPARTMENT OF STATE,
WASHINGTON, December 30, 1853.

SIR: Your several dispatches, to No. 11, inclusive, have been received at this Department.

In relation to the Clayton and Bulwer treaty, about which so much is said in your dispatches, I have only to remark that this government considers it a subsisting contract, and feels bound to observe its stipulations so far as by fair construction they impose obligations upon it.

If Great Britain has failed, or shall fail, on her part to fulfill the obligations she has therein assumed, or if she attempts to evade them by a misconstruction of that instrument, the discussions that may arise on these subjects must necessarily take place between the parties to it. The views taken of that treaty by the United States,

and your course in relation to it, pointed out in your first instructions, will be observed until you receive notice of their modification. In these instructions you were furnished with the news of one of the contracting parties (Great Britain) but at the same time you were informed that the United States did not concur in them. In the negotiations at London, in regard to the affairs of Central America, the meaning of that instrument will come directly under discussion. So far as respects your mission, you will regard it as meaning what the American negotiator intended when he entered into it, and what the Senate must have understood it to mean when it was ratified; viz., that by it Great Britain came under engagements to the United States to recede from her asserted protectorate of the Mosquito Indians, and to cease to exercise dominion or control in any part of Central America. If she had any colonial possessions therein at the date of the treaty, she was bound to abandon them, and equally bound to abstain from colonial acquisitions in that region. In your official intercourse with the States of Central America, you will present this construction of the treaty as the one given to it by your government.

It is believed that Great Britain has a qualified right over a tract of country called the Belize, from which she is not ousted by this treaty, because no part of that tract, when restricted to its proper limits, is within the boundaries of Central America.

* * * * *

I am, &c.,

W. L. MARCY.

[*The above letter appears*

I.—As Document 60, in Special Message of President, 14th February, 1856, pp. 142-143.

II.—As Document 37, in Special Message of President, 29th July, 1882, pp. 99-100.]

33d Congress, 1st Session.
Senate Doc. Ex. 13.
In Vol. 4.

30th December, 1853.

(Mr. Reverdy Johnson to Mr. Clayton.)

WASHINGTON, December 30, 1853.

MY DEAR SIR: I cannot hesitate to comply with your request to give you my opinion on the construction of the treaty of Wash-

ington, of the 19th of April, 1850. Pending the negotiation of this treaty, I exerted myself in personal conferences with Sir Henry L. Bulwer, to bring about an agreement between you and him, and, on several occasions, I had the honor to be consulted by you both, particularly in reference to the declarations made on both sides, at or about the time of the exchange of ratifications.

In the first draft of the first article of the treaty, presented by you for the consideration of the President, the contracting parties were obligated not "to occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." I thought then, as you did, that these words were sufficient to exclude any nation disposed to observe the faith of treaties, from occupying, fortifying, colonizing, or assuming, or exercising any dominion, under any pretext or for any purpose. I still think so; but I remember well that other gentlemen, who were consulted at the time, desired, from abundant caution, that Great Britain should pledge herself not to make use of any protection, which she afforded, or might afford, or any alliance which she had, or might have, to or with any State or people for the purpose of occupying, fortifying, or colonizing, or of assuming, or exercising dominion of that country. And, in consequence, the provision to that effect was introduced as a part of that article. The object of this was, still more especially to disarm the Mosquito protectorate of Great Britain in Central America.

My own opinion was then and it now is, that this provision was not at all necessary. You thought as I did. But as it could not possibly weaken the force or effect of the preceding words, if effective at all, could only serve to render them more forcible and operative, we did not object to its insertion. If the former words prohibited, as they clearly did of themselves, the doing any of the particular acts specified, an express stipulation that such acts should not be done, by or under cover of protectorates or alliances, could only operate still more effectively and absolutely to prohibit them.

As one of the advisers of the President, I unhesitatingly gave him my opinion, that the treaty did effectively, to all intents and purposes, disarm the British protectorate in Central America and the Mosquito coast, although it did not abolish the protectorate in terms, nor was it thought advisable to do so "*in ipsissimis verbis*." All that was desired by us was, to extinguish British dominion over that country, whether held directly or indirectly—whether claimed

by Great Britain in her own right or in the right of the Indians. But our government had no motive and no desire to prevent Great Britain from performing any of the duties which charity or compassion for a fallen race might dictate to her, or to deprive ourselves of the power to interfere to the same extent in the cause of humanity. We never designed to do anything which could enable the enemies of this miserable remnant of Indians to butcher or starve them, and we thought that both Great Britain and the United States owed it to their high character for civilization and humanity to interfere so far in their behalf as to prevent the extirpation of the race, or the expulsion of them from the lands they occupied, without extinguishing, by a reasonable indemnity, the Indian title according to the rules of justice, which have been admitted both by the English and ourselves. But we did intend (and the treaty contains everything for that purpose that could be desired) to prevent the British government from using any armed force, without our consent, within the prohibited region under pretext or cover of her pretended protectorate. And when now reviewing what was done, I say, upon my responsibility as a lawyer, and as the legal adviser of the President at the time, that, in my judgment, human language could not be more properly and admirably selected for the purpose than that which you employed when you signed the treaty. It has been said, but I can hardly accredit it, that Great Britain now contends, in virtue of the phraseology of the last part of the first article, incidentally speaking of the protection which either party may use, that the treaty acknowledges the protectorate over the Indians. If so, it equally acknowledges our protectorate over the same Indians, or over Nicaragua, or any State which we may choose to protect. The same words apply to both parties, and it is a bad rule that does not work equally for both. The moment Great Britain threatens with arms to defend the Indians, and claims a right to do so in virtue of the treaty, we may claim, by the same instrument, with equal justice, the right to take arms in defence of Honduras and Nicaragua. But, in my judgment, the treaty which was meant for peaceful purposes, denies both to Great Britain and the United States, the right to interfere by force of arms for any such purpose, or for any other purposes, except by mutual consent. If Great Britain may send an army into Nicaragua to defend the Indians without violating the treaty, which binds her not to occupy that country, then, by the same rule of construction, she may also fortify

the whole of Central America, or introduce a colony there under the same pretext. Any adverse possession of Great Britain in Central America, without our consent, is an occupation in violation of the national faith. The construction which would allow her to place an armed soldiery on the territory, for the purpose of protecting the Indians, would also allow her to assume absolute dominion there for the same purpose, and thus annul the whole treaty.

But it may be said that some other nation may invade Central America, and that this construction would deprive both the contracting parties of the power to defend it. Not at all. Both parties have bound themselves to protect the canal, and all canals and all railroads that can be made, not only in Central America, but in any part of the isthmus which separates North from South America. In virtue of this obligation, it would be the duty of both to resist, by the most effective means in their power, all invasions and other acts hostile to their great and philanthropic common purpose. So, too, injuries or torts inflicted either by the Indians or by any Central American State, upon either American citizens or British subjects, may be punished by their respective governments without violating the treaty; and no one of these states, by means of a convention, which is marked in every line by a devotion to the true principles of commerce, civilization, and equal justice to all men, can escape punishment for her injustice or oppression. This treaty is the first instance within my knowledge, in which two great nations of the earth have thus endeavored to combine peacefully for the prosecution and accomplishment of an object which, when completed, must advance the happiness and prosperity of all men; and it would be a matter of deep regret if the philanthropic and noble objects of the negotiations should now be defeated by petty cavils and special pleadings, on either side of the Atlantic.

As to the declaration of Sir Henry L. Bulwer, and the counter declaration made by you at the time of the exchange of the ratifications, I probably had a better opportunity of understanding the views and objects of both of you than any other. I assisted, by your request, in the arrangement of the phraseology of the counter declaration, dated the fourth of July, 1850, to Sir Henry L. Bulwer's declaration of the 29th of June. By your request, also, I examined Sir Henry L. Bulwer's powers and conversed with him freely and fully on the whole subject, at the very moment when, in consequence of his declaration, you threatened to break off the whole negotiation.

I remember well that after his declaration was received, there was a period when you had resolved to abandon the treaty in consequence of it; but when Sir Henry consented to receive your counter declaration of the fourth of July, in which you expressly limited the term "her Majesty's settlement at Honduras," to that country which is known as British Honduras, as contradistinguished or distinct from the state of Honduras, and also confined the word "dependencies" in his declaration to those "small islands" *known at the time to be such*; in which also, while admitting Belize or British Honduras not to be included in the treaty, you disavowed all purpose of admitting any British title even there; in which, too, you declared that the treaty did include "all the Central American States within their just limits and proper dependencies," and in which you expressly stated to him that no alteration could be made in the treaty without the consent of the Senate, and that he was understood as not even proposing any such alterations, you then consented to exchange upon that counter declaration, which, in your judgment, and in mine, too, completely annulled every pretext for asserting that the declarations of the negotiators had altered the convention, or fixed an interpretation upon it contrary to the meaning of the President and Senate. We both considered then, and as a jurist I now hold it to be perfectly clear, that the exchange of the ratifications on that counter declaration was, on the part of the British minister, a complete waiver of every objection that could be taken to any statement contained in it.

In point of law, the declarations of the negotiators, not submitted to the Senate, were of no validity and could not affect the treaty. Both understood that. This government had decided that question in the case of the Mexican protocol, and the British government was officially informed of their decision. The very power to exchange ratifications gave them the same information, and it is absolutely impossible that the British minister could have been deceived on that subject.

I remember well that you steadily refused every effort on the part of Sir Henry to induce you to recognize the Mosquito title. The treaty left us at liberty to recognize the title of Nicaragua or any other Central American State, and left the British government the right to recognize the title of the Mosquito King. On these points the parties agreed to disagree. But the right to recognize is a very different affair from the right to compel others to recog-

nize. The British protectorate was, I repeat, entirely disarmed by the treaty. How is it possible for Great Britain to protect if she cannot "occupy, or fortify, or assume any dominion whatever" in any part of the territory? She is equally prohibited, in my opinion, from occupying for the purpose of protection, or protecting, for the purpose of occupation. If she observes the treaty, her protectorate "stands (as you once well said of it in a diplomatic note) the shadow of a name."

With regard to the British colony said to have been established on the 17th of July, 1852, in the islands of Ruatan, Banocca, Utila, Barbarat, Helena, and Morat, and designated as the colony of the Bay of Islands, the question whether, by establishing such a colony, Great Britain has violated the treaty of 1850, depends entirely upon facts in regard to which there are different opinions. The only islands known to this government on the 4th of July, 1850, to be dependencies of British Honduras or Belize, were those referred to in the fourth and fifth articles of the treaty of London of the 14th of July, 1786. The fourth article provides that "the English shall be permitted to occupy the small island known by the names of Casino, St. George's Key, or Cayo Cafina," and by the fifth article, they "have the liberty of refitting their merchant ships in the southern triangle included between the the point of Cayo Cafina and the *cluster of small islands* which are situated opposite that part of the coast occupied by the cutters, at the distance of eight leagues from the river Wallis, seven from Cayo Cafina, and three from the river Sibun, a place which has always been found well adapted for that purpose. For which end, the edifices and storehouses absolutely necessary for that service shall be allowed to be built" These articles in the treaty of 1786 give us the only knowledge of any small islands, which were, on the 4th of July, 1850, "dependencies" of British Honduras. I repeat, that the counter declaration acknowledges no other dependencies of British Honduras but those small islands which were *known* to be such at its date. We know, indeed, that Great Britain as well as Honduras had laid claim to Ruatan, but we had no information as to the ground on which the former rested her claim. Your reply to Sir Henry L. Bulwer avoided any recognition of the British claim to it, or other allusion to it than could be inferred from the positive assertion that the treaty did include all the Central American States "with their just limits and proper dependencies." If these islands were a part of any Central

American State at the time of the treaty, the subsequent colonization of them by Great Britain is a clear violation of it. If, on the other hand, they did not then belong to any Central American State, it would be gross injustice on our part to pretend that the treaty did include them. My impression is, that Ruatan belongs to the State of Honduras, but my knowledge of the facts is too limited to enable me to express it without diffidence.

During the administration of President Taylor, there was no new aggression by Great Britain in any part of the isthmus which was not promptly met and resisted. He had firmly resolved by all constitutional means in his power to prevent such aggression if any should be attempted, considering, as he did, that all the passages through the isthmus should be kept free, to enable us to retain our possessions on the Pacific. I pretend to know nothing of what has occurred there since his day, but neither he nor his advisers could be held responsible if the treaty negotiated by his orders has been at any time violated since his death.

I can scarcely suppose it possible that Great Britain intends seriously to interpose her protectorate again to obtain dominion over the isthmus. I am assured that whatever may be contained to the contrary in any dispatches emanating from the British foreign office, of which rumor speaks, the fact is that a portion (represented to be one-half) of the claim of the Mosquito king has been lately bought up by American citizens, with the concurrence and approbation of the British government, and that negotiations are on foot, with a fair prospect of success, for the purchase by the same persons of the residue of that claim.

Before closing this letter I would congratulate you and our country on the brightening prospects of a speedy construction of the great work to promote which you have devoted yourself so long and so faithfully. American and English gentlemen of high character, have, it seems, interested themselves in the exploration of a canal route indicated by Humboldt across the isthmus at Darien. Their engineers have reported the route from the Savannah river, emptying into the harbor of Darien and the gulf of St. Miguel, on the Pacific, to Caledonia Bay, on the Atlantic, as being certainly practicable for less than seventy-five millions of dollars, and that the harbors on each side are admirably formed by nature for the purpose, being sufficient to contain the navies of the world. The deepest cut on this route, which extends but for a very small distance, is represented

to be only 150 feet, and the whole distance, from a point on the Savannah river, seven miles from the harbor of Darien, where the depth of water is 36 feet, to the noble Bay of Caledonia, is only 33 miles. In consequence of your negotiation the 8th article of the treaty of the 19th of April, 1850, binds both Great Britain and the United States to protect this route as well as all other canals and every railroad across the isthmus while in or out of Central America. I understand that, pursuing the spirit of the treaty, engineers under the sanction of the government of Great Britain and the United States are now actually engaged in surveying and exploring this Darien canal route, and that we may, during the next year, expect their official reports. American citizens and British subjects are to be equally concerned in the management of the canal. The British exploration, pursuant to the understanding between the two governments, is proceeding on the Pacific, and the *Cyane* (United States ship-of-war) sailed not many days ago from Philadelphia, for the purpose of aiding in surveying Caledonia bay and exploring the route on the Atlantic side. The protection of New Granada would be indeed utterly insufficient to induce capitalists to undertake such an enterprise, but the joint protection of the American and British governments, secured by the treaty, is held to be ample for the purpose, and under the assurance of that protection it is believed this great enterprise—by far the greatest and most important ever undertaken by man--will be consummated. If completed, the passage to San Francisco from New York will be shorter by probably 12,000 miles, and the danger of the Cape avoided. Our country will then become the great depository of the incalculable treasures of the Pacific. Aware, as you probably are, of the facts connected with this enterprise, you cannot but rejoice in the belief that the subject to which you have devoted so much labor, and for which you have incurred so much responsibility, has at length assumed a shape promising the realization of your brightest hopes.

I am, dear sir, sincerely your friend and obedient servant,

REVERDY JOHNSON.

Hon. JOHN M. CLAYTON,
United States Senate, Washington.

[*The above letter appears as Document 6, in Special Message of President, 31st December, 1853.*]

33d Congress, 1st Session.
Senate Ex. Doc. No. 13.
In Vol 4.

31st December, 1853.

(Special Message of the President of the United States.)

To the Senate of the United States :

I transmit to the Senate a report from the Secretary of State, with accompanying papers in answer to their resolution of the 12th inst.

FRANKLIN PIERCE.

WASHINGTON, December 31, 1853.

DEPARTMENT OF STATE,
WASHINGTON, December 31, 1853.

The Secretary of State, to whom was referred the resolution of the Senate of the 12th instant, requesting the Senate to inform that body "whether any communication has been received from the British government or any correspondence taken place with it on any subject growing out of the treaty of Washington of July 4, 1850, since the message of the President of the United States of January 4, 1853, made in answer to a call of the Senate of December 30, 1852; and if there has been any such communication or correspondence—and also copies of all instructions to our minister in England and of all correspondence in relation thereto—he is requested, if compatible with the public interest, to transmit copies of the same to the Senate" has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted,

W. L. MARCY.

To the PRESIDENT OF THE UNITED STATES.

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Messages and Documents.
1855-1856, Part 1.
P. 52.

5th January, 1854.

(Mr. Buchanan to Mr. Marcy.)

[*Extracts.*]

[No. 19.]

LEGATION OF THE UNITED STATES,
LONDON, January 5, 1854.

SIR: I have the honor to acknowledge the receipt of your dispatches Nos. 20, 21, 22, and 23, of 19th November, and 1st, 3d, and 16th December, respectively.

* * * * *

I have not deemed it advisable to press the Central American negotiation since my last interview with Lord Clarendon in November. The causes for this delay have been, the unsettled condition of the British cabinet in consequence of the resignation of Lord Palmerston, and his subsequent withdrawal of that resignation, the state of the Russo-Turkish question, to which the ministry have been devoting themselves fruitlessly, as it is now believed, to the task of preventing a war between Great Britain and Russia, and the desire which I felt to receive your instructions in regard to the suggestion which I had made to Lord Clarendon, that the Mosquito Indians might be placed in the same relation to Nicaragua that our own Indians sustain to the United States. Your satisfactory dispatch (No. 21) has removed all doubts on this latter subject.

I have reason to believe that my omission to press the Central American questions at the present most important crisis between Great Britain and Russia has been properly appreciated by Lord Clarendon.

On Monday last, however, I addressed his lordship a note, requesting an interview, to which I have received his answer, appointing to morrow (Friday) at half-past three o'clock for our meeting, too late for the next steamer. Indeed, I had reason to expect that ere this he would himself have taken the initiative, and have invited me to an interview. * * *

I am, sir, &c.,

JAMES BUCHANAN.

Hon. W. L. MARCY, &c., &c., &c., Washington.

Messages and Documents.
1855-1856.
Part 1, pp. 55-64.

6th January, 1854.

(Statement of Mr. Buchanan for the Earl of Clarendon.)

When the negotiations commenced, which resulted in the conclusion of the Clayton and Bulwer convention of April 19, 1850, the British government were in possession of the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, except that portion [of] it between the Sarstoon and cape Honduras, together with the adjacent Honduras island of Ruatan.

The government of the United States seriously contested the claim of Great Britain to any of these possessions, with the single exception of that part of the Belize settlement lying between the Rio Hondo and the Sebun, the usufruct of which, for a special purpose and with a careful reservation of his sovereign rights over it, had been granted by the king of Spain to the British under the convention of 1786.

The progress of events had rendered Central America an object of special interest to all the commercial nations of the world, on account of the railroads and canals then proposed to be constructed through the isthmus, for the purpose of uniting the Atlantic and Pacific oceans.

Great Britain and the United States, both having large and valuable possessions on the shores of the Pacific and an extensive trade with the countries beyond, it was natural that the one should desire to prevent the other from being placed in a position to exercise exclusive control, in peace or in war, over any of the grand thoroughfares between the two oceans. This was a main feature of the policy which dictated the Clayton and Bulwer convention. To place the two nations on an exact equality and thus to remove all causes of mutual jealousy, each of them agreed by this convention never to occupy, fortify, or exercise dominion over any portion of Central America. Both parties adopted this self-denying ordinance for the purpose of terminating serious misunderstandings then existing between them, which might have endangered their friendly relations.

Whether the United States acted wisely or not in relinquishing their right as an independent nation, to acquire territory in a region on their own continent, which may become necessary for the security of their communication with their important and valuable pos-

sessions on the Pacific, is another and a different question. But they have concluded the convention; their faith is pledged, and under such circumstances they never look behind the record.

The language of the convention is, properly, mutual, though in regard to the United States it can only restrain them from making future acquisitions, because it is well known that, in point of fact, they were not in the occupation of a foot of territory in Central America. In reference to Great Britain the case is different, and the language applies not only to the future, but the past; because she was then in the actual exercise of dominion over a very large portion of the eastern coast of Central America. Whilst, therefore, the United States has no occupancy to abandon, under the convention, Great Britain had extensive possessions to restore to the States of Guatemala, Honduras, and Nicaragua.

And yet the British government, up to the present moment, have not deemed it proper to take the first step towards the performance of their obligations under this convention. They are still in the actual occupancy of nearly the whole coast of Central America, including the island of Ruatan, in the very same manner that they were before its conclusion. This delay, on their part, surely cannot proceed from any obscurity in the language of the convention.

The first article declares that the government of the United States and Great Britain agree, that neither will "occupy or fortify or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." And from abundant caution in view of the Mosquito protectorate, the article proceeds as follows: "Nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people for the purpose of * * * occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same." This rendered into plain English is, that the parties shall not exercise dominion over any part of Central America, either directly or indirectly, either by themselves or in the name of others.

It has been said that the first article of the convention acknowledged, by implication, the right of Great Britain to the Mosquito protectorate—a right which the United States have always contested and resisted; a right which would continue to Great Britain that entire control over the Nicaragua ship canal, and the other avenues of communication between the two oceans, which it was

the very object of the convention to abolish, and to defeat that equality between the parties in Central America which was its special purpose to secure. Surely, the United States could never have been guilty of such a suicidal absurdity.

But admitting, for the sake of argument merely, that the United States have acknowledged the existence of this protectorate, it would be difficult, restricted in its use as it has been by the convention, to conceive for what object of the least importance it could be employed. It assuredly could not be for the purpose of "occupying" "the Mosquito coast," or "of assuming or exercising dominion over the same," because this has been expressly prohibited by the convention.

Great Britain has not even retired from the island of Ruatan, in obedience to the convention. Here no question can possibly arise from any alleged Mosquito protectorate. This is clearly a Central American island, belonging to the State of Honduras, and but thirty miles distant from her port of Truxillo. If the convention plainly embraces any object whatever, this must be Ruatan. And yet Great Britain has not only continued to occupy this island, but since the date of the convention she has actually established a colonial government over it. And not over it alone, but adding thereto five other neighboring islands on the Central American coast, has converted them all into the British colony of the "Bay Islands." Public sentiment is quite unanimous, in the United States, that the establishment of this colony is a palpable violation both of the letter and spirit of the Clayton and Bulwer convention.

Ruatan is well known to be an island of great value and importance, on account of its excellent harbors, which are rare along that coast. Indeed, it has been described by a Spanish author "as the key of the Bay of Honduras, and the focus of the trade of the neighboring countries." Such is its commanding geographical position that Great Britain, in possession of it, could completely arrest the trade of the United States in its passage to and from the isthmus. In vain may the convention have prohibited Great Britain from erecting or maintaining any fortifications commanding the Nicaragua canal, or in other portions of Central America, if she shall continue to exercise dominion over "the Bay Islands."

The United States now only ask that this convention shall be faithfully executed by both parties. They wish that every avenue of communication across the isthmus shall be opened, not merely for their own benefit, but for that of Great Britain and the whole world.

In this respect they would not, if they could, acquire any peculiar advantages, because these might arouse the jealousy and distrust of other nations.

The rights and duties of the respective parties have been ascertained and determined by the convention itself ; but as the justice of the previous claim of Great Britain to her possessions in Central America has been since asserted in high quarters, it may not be improper to present the views of the government of the United States upon this subject.

It need scarcely be repeated that the United States have always denied the validity of this claim. They believe that Great Britain has surrendered nothing under the convention which she would not voluntarily have done, from her own magnanimity and sense of justice, as soon as the question was brought home to her serious consideration. It would be a vain labor to trace the history of the connexion of Great Britain with the Mosquito shore, and other portions of Central America, previous to her treaties with Spain of 1783 and 1786. This connexion doubtless originated from her desire to break down the monopoly of trade which Spain so jealously enforced with her American colonies, and to introduce into them British manufactures. The attempts of Great Britain to accomplish this object were pertinaciously resisted by Spain, and became the source of continual difficulties between the two nations. After a long period of strife, these were happily terminated by the treaties of 1783 and 1786, in as clear and explicit language as was ever employed on any similar occasion ; and the history of the time renders the meaning of this language, if possible, still more clear and explicit.

The sixth article of the treaty of peace of September 3, 1783, was very distasteful to the king and cabinet of Great Britain. This abundantly appears from Lord John Russell's "Memorials and Correspondence of Charles James Fox." The British government, failing in their efforts to have this article deferred for six months, finally yielded a most reluctant consent to its insertion in the treaty.

Why this reluctant consent ? Because, the 6th article stipulates that with the exception of the territory between the river Wallis or Belize, and the Rio Hondo, within which permission was granted to British subjects to cut logwood, "all the English who may be dispersed in any other parts, whether on the Spanish continent, (*Continent Espagnol*;) or in any of the islands whatsoever, dependent

on the aforesaid Spanish continent, and for whatever reason it might be, without exception, shall retire within the district which has been above described, in the space of eighteen months, to be computed from the exchange of ratifications." And the treaty further expressly provides, that the permission granted to cut logwood "shall not be considered as derogating in any wise from his (Catholic majesty's) rights of sovereignty" over this logwood district; and it stipulates, moreover, "that if any fortifications should actually have been heretofore erected, within the limits marked out, his Britannic majesty shall cause them all to be demolished, and he will order his subjects not to build any new ones."

But notwithstanding these provisions, in the opinion of Mr. Fox, it was still in the power of the British government "to put our [their] own interpretation upon the words '*Continent Espagnol*,' and to determine upon prudential considerations whether the Mosquito shore comes under the description or not."

Hence the necessity for negotiations which should determine precisely and expressly the territory embraced by the treaty of 1783. These produced the convention of the 14th July, 1786, and its very first article removed every doubt on the subject. This declares that "His Britannic majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos as well as the continent in general and the islands adjacent, without exception," situated beyond the new limits prescribed by the convention, within which British subjects were to be permitted to cut not only logwood but mahogany and all other wood; and even this district is "indisputably acknowledged to belong of right to the crown of Spain."

Thus what was meant by the "*Continent Espagnol*," in the treaty of 1783, is defined beyond all doubt by the convention of 1786, and the sovereignty of the Spanish king over the Mosquito shore, as well as over every other portion of the Spanish continent and the islands adjacent, is expressly recognized.

It was just that Great Britain should interfere to protect the Mosquito Indians against the punishment to which they had exposed themselves as her allies from their legitimate and acknowledged sovereign. The 14th article of the convention, therefore, provides that "his Catholic majesty, prompted solely by motives of humanity, promises to the king of England that he will not exercise any act of severity against the Mosquitos inhabiting in part the countries which are to be evacuated by virtue of the present convention, on account

of the connections which may have subsisted between the said Indians and the English; and his Britannic majesty, on his part, will strictly prohibit all his subjects from furnishing arms or warlike stores to the Indians in general situated upon the frontiers of the Spanish possessions."

British honor required that these treaties with Spain should be faithfully observed, and from the contemporaneous history no doubt exists but that this was done; that the orders required by the 15th article of the convention were issued by the British government, and that they were strictly carried into execution.

In this connection a reference to the significant proceedings in the House of Lords on March 26, 1787, ought not to be omitted. On that day a motion was made by Lord Rawdon, "That the terms of the convention of July 14, 1786, do not meet the favorable opinion of this House." The motion was discussed at considerable length and with great ability. The task of defending the ministry on this occasion was undertaken by Lord Chancellor Thurlow, and was most triumphantly performed. He abundantly justified the ministry for having surrendered the Mosquito shore to Spain, and proved that, "the Mosquitos were not our allies; they were not a people we were bound by treaty to protect." "His lordship repelled the argument, that the settlement was a regular and legal settlement, with some sort of indignation; and so far from agreeing, as had been contended, that we had uniformly remained in the quiet and unquestionable possession of our claim to the territory, he called upon the noble Viscount Stormont to declare, as a man of honor, whether he did not know the contrary."

Lord Rawdon's motion to condemn the convention was rejected by a vote of 53 to 17.

It is worthy of special remark, that all sides of the House, whether approving or disapproving the convention, proceeded upon the express admission that it required Great Britain, employing its own language, to "evacuate the country of the Mosquitos." On this question the House of Lords were unanimous.

At what period, then, did Great Britain renew her claims to "the country of the Mosquitos, as well as the continent in general and the islands adjacent, without exception?" It certainly was not in 1801, when under the treaty of Amiens she acquired the island of Trinidad from Spain, without any mention whatever of future acquisitions in America. It certainly was not in 1809, when she entered into a treaty of alliance, offensive and defensive, with Spain,

the Mosquito shore, in the name of a protectorate, is not known with any degree of certainty in the United States. The first information on the subject, in the Department of State at Washington, was contained in a dispatch of the 20th January, 1842, from William S. Murphy, Esq., special agent of the American government to Guatemala, in which he states that in a conversation with Colonel McDonald at Belize, the latter had informed him he had discovered and sent documents to England, which caused the British government to revive their claim to the Mosquito territory.

According to Bonnycastle, the Mosquito shore "lies along part of the northern and eastern shore of Honduras," and, by the map which, accompanies his work, extends no further south than the mouth of the river Segovia, in about 12° north latitude. This respectable author certainly never could have imagined that it extended south of San Juan de Nicaragua, because he describes this as the principal seaport of Nicaragua on the Caribbean sea; says there are "three portages" between the lake and the mouth of the river, and "these carrying places are defended, and at one of them is the fort, San Juan, called also, the castle of Neustra Senora, on a rock and very strong; it has thirty-six guns mounted, with a small battery whose platform is level with the water; and the whole is enclosed on the land side by a ditch and rampart. Its garrison is generally kept up at a hundred infantry, sixteen artillery men, with about sixty of the militia, and is provided with batteaux, which row guard every night up and down the stream."

Thus it appears that the Spaniards were justly sensible of the importance of defending this outlet from the lake of Nicaragua to the ocean, because, as Captain Bonnycastle observes, "This port (San Juan) is looked upon as the key of the Americas; and with the possession of it, and Realejo on the other side of the lake, the Spanish colonies might be paralyzed, by the enemy being then master of the ports of both oceans." He might have added, that nearly sixty years ago, on the 26th February, 1796, the port of San Juan de Nicaragua was established as a port of entry of the second class by the king of Spain.

Captain Bonnycastle, as well as the Spaniards, would have been greatly surprised had they been informed that this port was a part of the dominions of his majesty the king of the Mosquitos, and that the cities and cultivated territories of Nicaragua surrounding the lakes Nicaragua and Managua had no outlet to the Caribbean sea, except by his gracious permission. It was therefore with profound

surprise and regret the government and people of the United States learned that a British force, on the 1st of January, 1848, had expelled the State of Nicaragua from San Juan; had hauled down the Nicaraguan flag, and had raised the Mosquito flag in its place. The ancient name of the town, San Juan de Nicaragua, which had identified it in all former time as belonging to Nicaragua, was on this occasion changed, and thereafter it became Greytown.

These proceedings gave birth to serious apprehensions throughout the United States, that Great Britain intended to monopolize for herself the control over the different routes between the Atlantic and Pacific, which, since the acquisition of California, had become of vital importance to the United States. Under this impression it was impossible that the American government could any longer remain silent and acquiescing spectators of what was passing in Central America.

Mr. Monroe, one of our wisest and most discreet Presidents, announced in a public message to Congress, in December, 1823, that, "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered subjects for future colonization by any European powers."

This declaration has since been known throughout the world as the "Monroe doctrine," and has received the public and official sanction of subsequent Presidents as well as of a very large majority of the American people.

Whilst this doctrine will be maintained, whenever in the opinion of Congress the peace and safety of the United States shall render this necessary, yet, to have acted upon it in central America might have brought us into collision with Great Britain, an event always to be deprecated and, if possible, avoided.

We can do each other the most good and the most harm of any two nations in the world; and therefore it is our strong mutual interest, as it ought to be our strong mutual desire, to remain the best friends. To settle these dangerous questions, both parties wisely resorted to friendly negotiations which resulted in the convention of April, 1850. May this prove to be instrumental in finally adjusting all questions of difficulty between the parties in central America, and in perpetuating their peace and friendship!

Surely, the Mosquito Indians ought not to prove an obstacle to so happy a consummation. Even if these savages had never been

actually subdued by Spain, this would give them no title to rank as an independent state, without violating the principles and the practice of every European nation, without exception, which has acquired territory on the continent of America. They all mutually recognized the right of discovery, as well as the title of the discoverer, to a large extent of interior territory, though at the moment occupied by fierce and hostile tribes of Indians.

On this principle the wars, the negotiations, the cessions, and the jurisprudence of these nations were founded. The ultimate dominion and absolute title belonged to themselves, although several of them, and especially Great Britain, conceded to the Indians a right of mere occupancy, which, however, could only be extinguished by the authority of the nation within whose dominions these Indians were found. All sales or transfers of territory made by them to third parties were declared to be absolutely void; and this was a merciful rule even for the Indians themselves, because it prevented them from being defrauded by dishonest individuals.

No nation has ever acted more steadily upon these principles than Great Britain, and she has solemnly recognized them in her treaties with the king of Spain of 1783 and 1786, by admitting his sovereignty over the Mosquitos.

Shall the Mosquito tribe of Indians constitute an exception from this hitherto universal rule? Is there anything in their character or in their civilization which would enable them to perform the duties and sustain the responsibilities of a sovereign State in the family of nations?

Bonnycastle says of them that they "were formerly a very powerful and numerous race of people, but the ravages of rum and the small pox have diminished their numbers very much." He represents them, on the authority of British settlers, as seeming "to have no other religion than the adoration of evil spirits."

The same author also states that "the warriors of this tribe are accounted at fifteen hundred." This possibly may have been correct in 1818, when the book was published, but at present serious doubts are entertained whether they reach much more than half that number.

The truth is, they are now a debased race, and are degraded even below the common Indian standard. They have acquired the worst vices of civilization from their intercourse with the basest

class of the whites, without any of its redeeming virtues. The Mosquitos have been thus represented by a writer of authority who has recently enjoyed the best opportunities for personal observation. That they are totally incapable of maintaining an independent civilized government is beyond all question. Then, in regard to their so-called king, Lord Palmerston, in speaking of him to Mr. Rives, in September, 1851, says: "They had what was called a king, who, by the bye," he added in a tone of pleasantry, "was as much a king as I or you." And Lord John Russell, in his dispatch to Mr. Crampton of the 19th January, 1853, denominates the Mosquito government as "a fiction," and speaks of the king as a person "whose title and power are, in truth, little better than nominal."

The moment Great Britain shall withdraw from Bluefields, where she now exercises exclusive dominion over the Mosquito shore, the former relations of the Mosquitos to Nicaragua and Honduras, as the successors of Spain, will naturally be restored. When this event shall occur, it is to be hoped that these states, in their conduct towards the Mosquitos and the other Indian tribes within their territories, will follow the example of Great Britain and the United States. Whilst neither of these has ever acknowledged or permitted any other nation to acknowledge any Indian tribe within their limits as an independent people, they have both recognized the qualified right of such tribes to occupy the soil, and, as the advance of the white settlements rendered this necessary, have acquired their title by a fair purchase.

Certainly it cannot be desired that this extensive and valuable Central American coast, on the highway of nations between the Atlantic and the Pacific, should be appropriated to the use of three or four thousand wandering Indians as an independent state, who would use it for no other purpose than that of hunting and fishing and savage warfare. If such an event were possible, the coast would become a retreat for pirates and outlaws of every nation, from whence to infest and disturb the commerce of the world in its transit across the isthmus. And but little better would be its condition should a new independent state be established on the Mosquito shore. Besides, in either event, the Central American states would deeply feel the injustice which had been done them in depriving them of a portion of their territories. They would never cease in attempts to recover their rights, and thus strife and contention would be perpetuated in that quarter of the world where it is so much the interest, both of Great Britain and the United

States, that all territorial questions shall be speedily, satisfactorily, and finally adjusted.

JAMES BUCHANAN.

LONDON, January 6, 1854.

[A part of the above statement, viz., beginning with the words, "Mr. Monroe, one of our wisest and most discreet Presidents," and running to and inclusive of the words, "Surely, the Mosquito Indians ought not to prove an obstacle to so happy a consummation," appears as Document 38, in Special Message of President, 29th July, 1882, p. 100.]

Messages and Documents.
1855-1856.
Part 1, pp. 52-55.

10th January, 1854.

(Mr. Buchanan to Mr. Marcy.)

[*Extracts.*]

[No. 20.]

LEGATION OF THE UNITED STATES,
LONDON, January 10, 1854.

STR: I had a long interview on Friday last with Lord Clarendon at the foreign office. We had much desultory and pleasant conversation on various topics; but in my report I shall confine myself to the substance of what passed between us in relation to the pending questions between the two governments.

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After our conversation had ended on the fishery and reciprocity questions, he informed me that he had presented my suggestion to the cabinet, that Nicaragua should treat the Mosquitos within her limits as Great Britain and the United States treated their own Indians, under similar circumstances; and they thought, as he had done, that it was highly reasonable. I told him I was glad to learn this, and was happy to inform him I could now state, from advices received by the last steamer, that you were of the same opinion.

He then asked, in what manner shall we carry this into effect? and intimated that the appointment of commissioners by the two governments for this purpose might be the best mode of proceeding. I told him I was not then prepared to express an opinion on the subject, but would take it into consideration. The proportion of territory to be occupied by the Mosquitos until their title was extinguished by Nicaragua, ought to depend very much upon their number. Lord John Russell had stated this to be thirty or forty

thousand, whilst from my information, which was, however, vague, it did not exceed as many hundreds. He replied, that Mr. Green, the British consul and agent at Bluefields, was now in London, and had mentioned to him that my estimate of their number was probably correct in regard to the Mosquitos north of the San Juan, though there might be a thousand more; but that the Mosquitos south of the San Juan were so numerous as to render Lord John's estimate of the whole not excessive. I told him I had never heard that any portion of this tribe resided in Costa Rica, and I thought there must be some mistake in the statement of Mr. Green. He then asked what we should do with the grants of land which had been made to individuals by the king of the Mosquitos; and I answered that under the law of all European nations since the discovery of America, as well as by the uniform practice both of Great Britain and the United States, such grants made by Indians were absolutely void. I also stated to him, somewhat in detail, the decision on this point made by the Supreme Court of the United States in the case of *Johnson vs. McIntosh*, (8 Wheaton, 543,) to which he appeared to listen with marked attention.

After this we had a discursive and rambling conversation, embracing the Ruatan and Belize questions, the Clayton and Bulwer treaty, and several other matters which I do not propose to detail. In the course of it he stated distinctly that this treaty was, in their opinion, entirely prospective in its operation and did not require them to abandon any of their possessions in Central America. At this I expressed my astonishment, and we discussed the point in an earnest but good natured manner.

In regard to Ruatan, he said he had the papers in a box before him to prove their title to that island; but it would consume too much time to read them, and therefore he had thought of submitting his views to me respecting it in writing. This suggestion pleased me much, as I desired to present to his lordship a memorandum which I had prepared, embracing our whole case in Central America. I told him, therefore, I should be much gratified to receive his views in writing; and at the same time informed him, that without changing our mode of personal conference, I desired also to deliver him a written memorandum to which he might at all times refer, containing a statement of the case on the part of my government. With this he expressed himself to be much pleased. I am sorry that I shall not be able to furnish you a copy of this memorandum by the present steamer.

One incident may be worth particular mention. In the course of the conversation, he said the Bay Islands were but of little value; but if British honor required their retention they could never be surrendered. I made some playful remark in reference to the idea of British honor being involved in so small an affair. He then became quite earnest on the point of honor, which might, he observed, be as much involved in subjects of little as of great value. To this I assented, but said, that when the construction of a treaty was really doubtful, which I did not admit upon the present occasion, and when the friendly relations between two great countries were at stake, there could in such a case be no point of honor involved in the one yielding to the other what was admitted to be of but little value. He replied that in this view of the case I might be correct.

In regard to Belize, there was not the least appearance of yielding on the part of his lordship. He repudiated the idea, with some warmth, that any person should suppose they had surrendered this settlement under the Clayton and Bulwer treaty.

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The time has therefore arrived when it becomes indispensable that I should receive the President's instructions on this point. In forming his opinion, it may be worthy of consideration, that the British have been in the actual possession of Belize, under treaty, for more than seventy years; that no period was fixed when they should withdraw from this possession; that Spain declared war against Great Britain on the 11th October, 1796; that an attack was made from Yucatan on Belize in 1798, which was repelled by the British settlers; and that for nearly a quarter of a century it has been under a regular colonial government, without attracting the notice of the United States.

In any event, I shall do my whole duty in first urging their withdrawal from the whole colony; and if that should not prove successful, then from the portion of it south of the Sibun. But what am I to do in case I shall be unsuccessful in both or either of these particulars? I shall await your answer with considerable anxiety.

When I pointed out to Lord Clarendon on Bailey's map, which lay before him, the extent of the encroachments which British settlers had made beyond the treaty limits, his only answer was, in a tone of pleasantry, that we ought not to complain of encroach-

ments, and instanced our acquisition of Texas. I then took occasion to give him information on this subject, for which he thanked me, and said that he had never understood it before.

Returning again to the Mosquitos, am I to consent that they shall continue in the occupation of the territory assigned to them by the agreement between Messrs. Webster and Crampton, of April 30, 1852, until their title shall be extinguished by Nicaragua? Whether this assignment be unreasonable or not would depend much upon their number. You can doubtless ascertain at Washington whether any considerable number of the tribe inhabit the country south of the San Juan, as stated by Mr. Green.

In regard to the Mosquitos, the question of the greatest difficulty would seem to be, in what manner can Great Britain and the United States interfere, as suggested by Lord Clarendon, to prevent Nicaragua from depriving these Indians of their right of occupancy without a fair equivalent. It would seem that this could be best accomplished by a treaty with Nicaragua. The whole detail presents embarrassments which will be annoying without the consent of Nicaragua, and yet I am persuaded the British government care little or nothing for this consent. They have evidently formed a very unfavorable opinion of that State, and greatly prefer Costa Rica. It would appear from what his lordship informed me, Mr. Marcoleta had told Mr. Crampton that Costa Rica is jealous of the influence of Nicaragua with the United States.

You would naturally desire to know something of his majesty the present king of the Mosquitos. I had, on a former occasion, stated to Lord Clarendon that he was drunken and worthless. At this interview his lordship informed me I was mistaken; that the present king was a decent and well behaved youth of between twenty-two and twenty-three, who resided in Mr. Green's family, though he believed his late majesty, to whom I had doubtless referred, was a bad fellow.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

24th January, 1854.

(Mr. Marcoleta to Mr. Marcy.)

[*Translation.*]

WASHINGTON, January 24, 1854.

The undersigned, envoy extraordinary and minister plenipotentiary of the republic of Nicaragua, has the honor of enclosing to the honorable W. L. Marcy, Secretary of State of the United States, a copy of the propositions he has just made in the name of his government to that of her Britannic Majesty, for the definite and final settlement of the matters relating to the port of San Juan del Norte, the territory and coast of Mosquitos.

The undersigned being convinced of the lively interest which the government of the Union feels to see these questions (in which, thanks to its sympathy for Nicaragua it has taken so active and favorable a part) at once terminated, has no doubt but that this project will elicit the fullest approbation of the honorable W. L. Marcy; seeing that while it meets all exigencies and protects the susceptibility of the parties interested, it likewise does away with every pretext for further delays, and removes all causes of future discord.

On the other side, the government of Nicaragua, the party principally interested in this matter, could not continue any longer in a state of endless expectancy, which, without any indication of the probability of a happy issue, seriously compromises her dearest and most vital interests. In contributing its proportion of sacrifices, it contributes to the re-establishment of good harmony between all parties, and secures at the same time its political and commercial relations with the great powers.

As the intricate questions and discussions of which Europe is now the theatre, and the eventuality of more serious complications on the old continent might perhaps compromise the desired result, the undersigned has, at the same time, proposed to his lordship the Earl of Clarendon that he would be pleased to authorize, if he deems it proper, her Britannic Majesty's minister plenipotentiary in Washington to proceed, conjointly with the undersigned, to negotiate and adjust a treaty upon the basis herewith enclosed—bases which were agreed upon at Managua in September, 1853, between his excellency the general supreme director of Nicaragua and the

honorable Solon Borland, minister plenipotentiary of the United States in Central America.

The undersigned, not doubting the approbation and co-operation of the Hon. W. L. Marcy, Secretary of State of the American Union, in this matter, avails himself of this new opportunity to renew the assurance of his highest consideration.

J. DE MARCOLETA.

The Hon. W. L. MARCY,
Secretary of State of the American Union.

[INCLOSURE.]

(Project of settlement and object of the articles of a treaty between Great Britain and the republic of Nicaragua relative to the port of San Juan del Norte, territory and coast of Mosquitos, proposed to his lordship the Earl of Clarendon by the minister plenipotentiary of Nicaragua in the United States and in Great Britain.)

[*Translation.*]

1st. The Mosquito Indians, and the other tribes who inhabit the territory of that name, shall remain forever incorporated with, and perpetually united to, the republic of Nicaragua.

2d. The territory and coast of Mosquitos shall form for the future a department of the republic.

3d. The port of San Juan del Norte shall be replaced under the authority and sovereignty of Nicaragua.

4th. The same shall be declared a free port.

By way of compensation, Nicaragua engages—

1st. To exercise a special protection over the Indians; to promote their moral and material instruction, and not to molest nor trouble them on account of any act anterior to the ratification of the treaty.

2d. To pay to the Indians four per cent. on the net produce of the duties of import for the port of San Juan del Norte during five years.

3d. To award to the Mosquito chief an annual pension for life, in proportion to the salaries received by the functionaries of the republic.

4th. To recognize as legitimate the grants of lands which have been followed by occupation made since the 1st of January, 1848, provided that said grants are not in opposition to those made by the Spanish government, by the confederacy of Central America, and by the government of Nicaragua, nor to the rights which the canal company has enjoyed until now.

To those that have been made in localities which the government of

Nicaragua might want for warehouses, custom-houses, barracks, arsenals, fortifications, light-houses, and other public edifices.

5th. Those grants will not be recognized which have been made before or after the 1st of January, 1848, for speculative and mercantile purposes, and the excessive extension of which leads to presume the existence of such an object.

J. D. MARCOLETA.

WASHINGTON, January 21, 1854.

[*The above letter and inclosure appear as Document 61, Inclosure 1, in Special Message of President, 14th February, 1856, pp. 143-145.*]

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

21st February, 1854.

(Mr. Marcy to Mr. Marcoleta.)

DEPARTMENT OF STATE,
WASHINGTON, February 21, 1854.

The undersigned, Secretary of State of the United States, has not been able to comply with the request contained in the note of the envoy extraordinary and minister plenipotentiary of Nicaragua, of the 24th ultimo, to co-operate with that republic in the effort he is making to negotiate a treaty between it and Great Britain, on the basis proposed by Mr. Marcoleta to Lord Clarendon, her Britannic Majesty's principal secretary of state for foreign affairs. Mr. Marcoleta must be fully aware that the United States deny that Great Britain has any sovereign rights over any part of Central America. To treat with her in the way proposed, or to co-operate in making such a treaty, would be a distinct acknowledgment that she has such rights. Such a treaty would also interfere directly with the claims set up by another of the central republics, Costa Rica; and very little would be accomplished towards settling the questions which are now disturbing Nicaragua in regard to boundary and jurisdiction, unless Costa Rica were a party to it. The principal matters embraced in the *projet* of the treaty submitted to the undersigned by Mr. Marcoleta, relate to the conflicting claims and pretensions between that republic and Nicaragua; and they could not, certainly, be disposed of by an arrangement with Great Britain, which has no sovereign rights whatever in Central America. It is true, the latter power claims a right as assumed protector of the

Mosquito Indians, to see that they are fairly treated. To this end she would feel authorized to look to any settlement of the pending questions between the two republics which might affect the condition and well-being of this tribe of Indians; but beyond that object her interference could not be invoked without an implication that she had rights which the United States, as well as Costa Rica and Nicaragua, deny to her.

The negotiation proposed by Mr. Marcoleta, in which he solicits the co-operation of the United States, should be with Costa Rica, and not with Great Britain, and with it Great Britain should not be invited to interpose any further than to yield her acquiescence in any provision that may be made for the Mosquitos. It is very questionable whether the United States should or would countenance her interposition even to this extent, for they do not acknowledge that Great Britain has now or ever had a rightful protectorate over these Indians. Entertaining these views, the United States cannot, as must be very evident to Mr. Marcoleta, co-operate with Nicaragua in the proposed negotiation with Great Britain. At the same time it is proper to say that the United States are anxious that all the questions which are disturbing the friendly relations between the Central American States should be amicably adjusted, and they are ready to lend their good offices to bring about such a desirable result.

The undersigned avails himself of this occasion to renew to Mr. Marcoleta the assurances of his distinguished consideration.

W. L. MARCY.

Señor DON JOSÉ DE MARCOLETA, &c., &c., &c.

[*The above letter appears as Document 62, in Special Message of President, 14th February, 1856, pp. 145-146.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

2d May, 1854.

(Statement of Lord Clarendon for Mr. Buchanan.)

[*Extract.*]

FOREIGN OFFICE, May 2, 1854.

* * * * *

It was never in the contemplation of Her Majesty's Government, nor in that of the Government of the United States, that the Treaty

of 1850 should interfere in any way with Her Majesty's settlement at Belize or its dependencies. It was not necessary that this should have been particularly stated, inasmuch that it is generally considered that the term "Central America"—a term of modern invention—could only appropriately apply to those States at one time united under the name of the "Central American Republic," and now existing as five separate republics; but, in order that there should be no possible misconception at any future period relative to this point, the two negotiators, at the time of ratifying the treaty exchanged declarations to the effect that neither of the Governments they represented had meant in such treaty to comprehend the settlement and dependencies in question.

Mr. Clayton's declaration to Her Majesty's Government on this subject was ample and satisfactory, as the following extract from his note of July 4, 1850, will show :

The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by the Government, and it was neither understood by them nor by neither of us, (the negotiators) to include the British settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras,) nor the small islands in the neighborhood of that settlement which may be known as its dependencies.

To this settlement and these islands the treaty we negotiated was not intended by either of us to apply. The title to them it is now and has been my intention throughout the whole negotiation to leave as the treaty leaves it, without denying or affirming or in any way meddling with the same, just as it stood previously.

The Chairman of the Committee on Foreign Relations of the Senate, the Hon. W. N. King, informs me that the Senate perfectly understood that the treaty did not include British Honduras.

Such having been the mutual understanding as to the exception of the settlement of Belize and its dependencies, from the operation of the treaty, the only question relative to this settlement and its dependencies in reference to the treaty that can now arise is as to what is the settlement of Belize and its dependencies, or, in other words, as to what is British Honduras and its dependencies.

Her Majesty's Government certainly understood that the settlement of Belize, as here alluded to, is the settlement of Belize, as established in 1850; and it is more warranted in this conclusion from the fact that the United States had, in 1847, sent a consul to this settlement, which consul had received his exequatur from the

British Government—a circumstance which constitutes a recognition by the United States Government of the settlement of British Honduras under Her Majesty as it then existed.

Her Majesty's Government at once states this, because it perceives that Mr. Buchanan restricts the said settlement within the boundaries to which it was confined by the treaty of 1786, whilst Her Majesty's Government not only has to repeat that the treaties with old Spain cannot be held, as a matter of course, to be binding with respect to all the various detached portions of the old Spanish-American monarchy, but it has also to observe that the Treaty of 1786 was put an end to by a subsequent state of war between Great Britain and Spain; that during that war the boundaries of the British settlement in question were enlarged; and that when peace was re-established between Great Britain and Spain no treaty of a political nature, or relating to territorial limits, revived those treaties between Great Britain and Spain which had previously existed.

Her Majesty's Government, in stating this fact, declares distinctly, at the same time, that it has no projects of political ambition or aggrandizement with respect to the settlement referred to; and that it will be its object to come to some prompt, fair and amicable arrangement with the States in the vicinity of British Honduras for regulating the limits which should be given to it, and which shall not henceforth be extended beyond the boundaries now assigned to them.

* * * * *

CLARENDON.

[The above letter appears as Document 39, in Special Message of President, 29th July, 1882, p. 101.]

Messages and Documents.
1855-1856, Part I.
Pp. 80-93.

2d May, 1854.

(Statement of Lord Clarendon for Mr. Buchanan.)

FOREIGN OFFICE, May 2, 1854.

The substance of the case submitted to her Majesty's government by Mr. Buchanan may be briefly stated as follows:

1. That Great Britain, prior to April, 1850, was "in possession of the whole coast of Central America, from the Rio Hondo to the port and harbor of San Juan de Nicaragua, except that portion of it be-

tween the Sarstoon and Cape Honduras, together with the adjacent Honduras island of Ruatan."

2. That the government of the United States does not understand under what title Great Britain, having abandoned the greater part of these possessions in 1786, resumed them subsequently, nor does it know precisely at what period the protectorate of Great Britain over Mosquito was re-established, the first intimation which the United States government had received on the subject being from an American agent in 1842, and that, moreover, Captain Bonycastle and other authorities had never represented the Mosquito shore as extending as far as the river and town of San Juan de Nicaragua, which latter the Spaniards had considered a place of much importance and the key to the Americas.

3. That it appears to the United States government that Spain, in virtue of the treaty of 1786, had a right to object to Great Britain establishing herself on the Mosquito coast, or assuming the protectorate of Mosquito, and that Great Britain had, by her treaty with Mexico recognized that the former colonies of Spain stood in the same position with respect to other States as old Spain herself, and inherited the advantages of the ancient treaties of the mother country; that the United States government had always contested the claim of Great Britain to all the possessions held by her in Central America, with the exception of that portion of the settlement of Belize, which is situated between the Rio Hondo and the Sibun; that it had always resisted the right of Great Britain to establish a protectorate over the Mosquitos, and that it had learned with great surprise and regret that the British forces had, in 1848, expelled the Nicaraguan authorities, which held the port and town of San Juan de Nicaragua, in virtue of the old Spanish rights, and had then hoisted thereupon the flag of the Mosquitos.

4. That Mr. Monroe, when President of the United States, had, in 1823, announced in a public message to Congress that the American continents were not, henceforth, to be considered subject to colonization by European powers.

5. That no claim on the part of Great Britain to act in the name, or under the authority of the Mosquito Indians, could be well founded, inasmuch as that race, even if never conquered by Spain, were savages, who, according to the practice and principles of all European nations which had ever acquired territory on the continent of America had no title to rank as independent states in the territory they occupied, but had a claim to mere occupancy thereon, such

territory being the dominion of the discoverer of it, or even of the discoverer of the territory on the same continent, though far distant from it, by whom, alone, this claim to mere occupancy on the part of the Indians was to be extinguished by purchase, as the advances of the white settlements rendered it necessary.

And, finally, that Great Britain having declared by treaty, in 1850, that she would neither colonize, fortify, occupy, nor assume dominion over Mosquito or Central America, was thereby, at all events, bound to withdraw her protection from the people and territory of the Mosquitos, and moreover to deliver up Ruatan, which was an island belonging to Honduras, a Central American State, but which, nevertheless, had recently been colonized and occupied by Great Britain,

Such are the main points brought forward by Mr. Buchanan in the statement which he has delivered to her majesty's government.

If, in speaking of the possessions held by Great Britain previous to 1850 on the coast of Central America, (the settlement of Belize excepted,) Mr. Buchanan means that his expressions should apply to that district which is called the Mosquito country, it is proper that her majesty's government should at once state that her majesty has never held any *possessions* whatsoever in the Mosquito country. But although Great Britain held no *possessions* in the Mosquito country, she undoubtedly exercised a great and extensive influence over it as the protecting ally of the Mosquito king, that king or chief having occasionally been even crowned at Jamaica under the auspices of the British authorities.

The United States government will, it is apprehended, scarcely expect that Great Britain should enter into any explanations or defence of her conduct with respect to acts committed by her nearly forty years ago, in a matter in which no right or possession of the United States was involved.

The government of the United States would, it is conceived, be much and justly surprised if the government of Great Britain were now to question the propriety of any of its own long past acts by which no territorial right of Great Britain had been affected, nor would the American people consider any justification or explanation of such acts to foreign States consistent with the dignity and independent position of the United States. The government of the United States, therefore, will not be surprised if the government of Great Britain abstains, on this occasion, from entering into

anything which might appear an explanation or defence of its conduct with regard to its long established protectorate of the Mosquitos.

With respect to any right or any interference of the government of old Spain, on the subject of the Mosquito protectorate, it must be observed that since the peace of 1815, that government has never raised any question with respect this protectorate; and as for Great Britain having by her treaty with Mexico recognized, as a principle, that the engagements between herself and Spain were necessarily transferred to every fraction of the Spanish monarchy which now exists, or may exist, on a distinct and independent basis, her majesty's government must entirely deny this assumption. Great Britain, in her treaty with Mexico, simply stipulated that British subjects should not be worse off under Mexico independent than under Mexico when a Spanish province. It was natural, in recognizing the independence of Mexico, that Great Britain should make such a stipulation, but the fact of her doing so rather proves that she thought a special stipulation necessary, and that she did not conceive that she would have enjoyed, under any general principle, the privilege she bargained for, and this stipulation, as indeed the treaty itself, is a proof that Mexico was not considered as inheriting the obligations or rights of Spain.

But admitting that it may, in some cases, be expedient, although not obligatory, to recognize the rights and obligations of old Spain as vested in the new Spanish American States, and allowing that, in conformity with that policy, Great Britain might have thought proper to receive, concerning Mosquito, the remonstrances of those neighboring republics which have successively risen in America on the ruins of the Spanish empire, even then, it may be observed, that no remonstrance was made by any of such republics for many years after the protectorate of Great Britain over Mosquito had been a fact well known to them; and, moreover, that when such remonstrances were made, they were made with similar pretensions, not by one only, but by several of those governments, insomuch, that if the Mosquito Indians were at this moment withdrawn altogether from the portion of America which they now inhabit, and if it were permitted to the States of Spanish origin to inherit each respectively the claims of their parent State, it would still be a question on which of the claimants the territory thus left unoccupied would of right devolve. Whilst it is certain that such withdrawal, without previous arrangements, would lead to contests alike disadvanta-

geous to the real interests of the several States, and to the general prosperity of Central America herself.

Thus much with reference to the conduct and position of Spain and the Central American States with regard to the British protectorate in Mosquito ; but with respect to the conduct and position of the United States relative thereto, Mr. Buchanan is mistaken in thinking that the United States government has always contested and resisted the position assumed by Great Britain on the Mosquito coast.

It may be true that the United States were not informed of the position of Great Britain in respect to Mosquito until 1842, but they were *then* informed of it ; and yet there is no trace of their having alluded to this question in their communications with her majesty's government up to the end of 1849. Nay, in 1850, when the President of the United States presented to Congress various papers relative to the affairs of Central America, it will be seen that, on introducing these affairs to the attention of Congress, the President's Secretary of State for foreign affairs expressly says that the government of Nicaragua, in November, 1847, solicited the aid of the United States government to prevent an anticipated attack on San Juan, by the British forces acting on behalf of the Mosquito king, but received no answer ; that the president of Nicaragua addressed the President of the United States at the same time, and received no answer ; that in April, 1848, the United States consul at Nicaragua, at the request of the minister of foreign affairs of that republic, stated the occupation of San Juan by a British force, but was not answered ; that on the 5th November, 1848, M. Castillon, proceeding to London from Nicaragua, and then to Washington, addressed a letter to the United States Secretary of State, soliciting his intervention with regard to the claims of Great Britain in right of the Mosquito king, and received no answer ; that on the 12th of January, 1849, Mr. Bancroft, then representative of the United States to the court of St. James, referring to Mr. Castillon's arrival in London, and the subject of his mission to settle the affairs of San Juan de Nicaragua with the British government, said, " I think it proper to state to you my opinion, that Lord Palmerston will not recede. I have, of course, taken no part ;" and that again, in March, Mr. Bancroft wrote that Mr. Castillon would be anxious to seek advice from the United States, but that he had always made answer to him " that he was not authorized to offer advice."

It would thus seem, on the authority of the United States govern-

ment itself, that up to the end of 1849 the United States government had made no remark or remonstrance to Great Britain on the subject of her protectorate of Mosquito, and that even with respect to the capture of San Juan de Nicaragua (now called Greytown) the United States minister in London was not authorized to take any steps concerning it, nor even to afford to the commissioner from Nicaragua the benefit of his counsels and good offices thereupon; and it is but right to observe that the United States government pursued by this course towards her majesty's government that friendly and considerate policy which her majesty's government always wishes to pursue and has pursued towards the United States government when that government has had differences with other powers. With regard to the grounds on which her majesty's government made the capture of San Juan de Nicaragua in 1848, the desire of her majesty's government to avoid all subjects of controversy, in which it is not absolutely necessary to enter, restrains it from here adverting to the documents which stated the reasons on which her majesty's government came to the resolution it at that time adopted; and, indeed, as those documents were laid before parliament and communicated officially to the United States government, it would be superfluous now to recapitulate their contents.

With regard to the doctrine laid down by Mr. President Monroe, in 1823, concerning the future colonization of the American continent by European states, as an international axiom which ought to regulate the conduct of European states, it can only be viewed as the dictum of the distinguished personage who delivered it; but her majesty's government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European states. The doctrine with regard to the incapacity of the Indians to exercise the rights of sovereign powers must also remain a doctrine on which each State which has to deal with such Indians must be free to exercise its own policy and to follow the dictates of its own conscience. It is certainly true that Great Britain, Spain and the United States were all at one time in the habit of treating the Indian races in the manner which Mr. Buchanan describes, but this past practice, though general, cannot be taken as an invariable guide for any future policy. The period has not yet passed beyond the memory of man at which Great Britain and the United States, now so nobly distinguished in suppressing the slave trade, practised and encouraged that trade and deemed it legitimate.

.. The project of a free republic, composed chiefly of negroes from

the United States, and originally established under the enlightened and humane patronage of the United States, would have been deemed fifty years ago an absurd and impossible chimera; yet Liberia exists, and now flourishes as an independent State.

Already Great Britain, in her own dealings with Indians, has recognized their rulers as independent chiefs, whilst in her treaties with foreign powers she has spoken of their tribes as nations, and stipulated for the restoration of their possessions. Thus, on all the above mentioned topics her majesty's government, without seeking to impose any opinions on the United States government, claims a right to hold its own opinions; nor indeed does it appear necessary, although, doubtless, it would be desirable that her majesty's government and the United States government should be perfectly agreed with respect to them. The one remaining subject to be discussed is, however, of a very different character. It relates to a question in which Great Britain and the United States are both directly concerned, and in regard to which it is a matter both of honor and interest that they should avoid all misunderstanding or disagreement. This subject is the rightful interpretation of a treaty engagement to which Great Britain and the United States are parties.

Mr. Buchanan lays it down as a fact that Great Britain held the sovereignty of the Mosquito coast prior to 1850, and he then states that Great Britain still continues to hold this sovereignty, although the treaty of 1850 prohibits her from so doing. But Mr. Buchanan confounds the two conditions of a sovereignty and of a protectorate, and under this error treats the agreement "not to colonize, nor occupy, nor fortify, nor assume, nor exercise dominion over," as including an agreement not to protect.

With respect to sovereignty, Great Britain never claimed, and does not now claim, or hold any sovereignty in or over Mosquito; but with respect to the protectorate which Great Britain has long exercised over Mosquito, her majesty's government asserts that the treaty of 1850 did not, and was not meant to, annihilate such protectorate, but simply to confine its powers and limit its influence.

Now the spirit of a treaty must always be inferred from the circumstances under which it takes place, and the true construction of a treaty must be deduced from the literal meaning of the words employed in its framing. The circumstances under which the treaty of 1850 took place were the following:

Up to March, 1849, *i. e.* one whole year after the capture of San

Juan de Nicaragua by the British forces, the United States government made no observation, as has already been stated, to the British government having any allusion to this act. But in November, 1849, Mr. Lawrence, then just arrived in England as the representative of the United States government, addressed a note to Lord Palmerston, not asking any question as to the British protectorate of Mosquito, but requesting to know whether her majesty's government would join with the United States in guaranteeing the neutrality of a ship canal, railway or other communication between the two oceans, to be open to the world, and common to all nations, and whether the British government intended to occupy or colonize Nicaragua, Costa Rica the Mosquito coast, so called, or any part of Central America. To this note Lord Palmerston replied by stating that her majesty's government had no intention to occupy or colonize Nicaragua or Costa Rica, the Mosquito coast, nor any part of Central America, and that her majesty's government would feel great pleasure in combining and co-operating with the government of the United States for the purpose of assisting the operations of a company which might be formed with a view to establish a general communication, by canal or railroad, across the isthmus separating the northern and southern portions of the American continent, both by offering security for the works while in progress and when completed and in use, and by placing such communication, through the means of political arrangements, beyond the reach of molestation, disturbance, or obstacle, by reason of international disputes which may at any time unfortunately arise, upon the conditions, moreover, that such communications should at all times be open and accessible for the commerce of all nations, and on equal terms for all. These notes, copies of which are hereunto annexed, are of great importance, inasmuch as they laid the foundation for the subsequent convention of Washington, whilst they explain the nature of the feelings entertained at that time by the United States government and by the government of her majesty. It was clear that the United States government, which had regarded the affairs of Central America not long before with comparative indifference, had had its attention lately called to this part of the world by its acquisition of California, and the discovery of the ore which that region was found to contain, circumstances which rendered of vast importance some safe and rapid means of communication between the possessions of the United States on the Pacific and the possessions of the United States on the Atlantic. A project of

a canal communication, moreover, through the State and Lake of Nicaragua and the river San Juan was then in contemplation, and Nicaragua had granted to a company of American citizens whatever rights it possessed over the proposed line of traffic.

Great Britain, however, by having placed a people under her protection in possession of the port and town of San Juan de Nicaragua, might exert her influence either to prevent this canal being formed, or, if she allowed it to be formed, might aim, through her protectorate, at acquiring over such canal peculiar rights or absolute control.

The government of the United States was, therefore, justly anxious to know whether the British government would favor or impede the construction of a canal by the river San Juan, and whether it would attempt to establish a predominant and permanent power over this canal, by colonizing, fortifying, occupying, or taking absolute possession of the country through which it passed.

The mere protectorate of Great Britain, stripped of those attributes which affected the construction and the freedom of the proposed canal, was of small consequence to the United States, but, connected with those attributes, it was a matter of great importance.

On the other hand, her majesty's government, which had just expelled the Nicaraguans from Greytown (or San Juan de Nicaragua) and the country adjacent, and had formally discussed and finally rejected the claims of the Nicaraguan government to these contested possessions, could not with honor or credit retire, at the mere interposition of the United States, from the position it had assumed, or abandon the long established British protectorate over the Mosquitos, and allow the authorities of Nicaragua to re-occupy the ground from which they had so recently been driven. But Great Britain could clearly engage herself to the United States to do all that was required respecting the construction and protection of any canal communication, to be enjoyed on equal terms by all nations; and she could also limit the powers of her protectorate over Mosquito, so as to remove all suspicion or possibility of her using it in any manner that would place such canal communication under her exclusive authority and dominion.

Thus, when the drawing up of a treaty afterwards took place, the object of the British negotiator and, it must be presumed, that of both negotiators, necessarily was to draw up such a convention as, without conceding any specific point on which one party could not

in honor yield, would make such concessions on all other points as the other party desired, and if the convention in question be referred to, it will be seen that it is drawn up carefully, in such a manner as to make it a matter of indifference, so far as the canal is concerned, as to whether the port and town of San Juan are under the modified protectorate of Great Britain or under the government of Nicaragua. Moreover, in drawing up this treaty, both Mr. Clayton and Sir H. L. Bulwer referred to the notes which had passed between Lord Palmerston and Mr. Lawrence, and even made use of the precise terms which had been then employed, from which it must of necessity be inferred that they meant to transfer to their convention, with the words which they borrowed, the meaning which had previously been attached to those words in the documents from which they extracted them; and a reference to such documents will at once show that Mr. Lawrence, while he asked her majesty's government whether it meant to occupy, fortify, colonize, or assume or exercise dominion over Mosquito, did not allude to the protectorate of Great Britain over that country, and that Lord Palmerston, in declaring that her majesty's government did not intend to do any of these things, expressly left the question concerning the political relations between Great Britain and the Mosquitos untouched. So much for the spirit which presided over the convention of 1850.

With regard to the literal meaning, this treaty declares in words that the two parties "will not occupy nor fortify, nor colonize, nor assume nor exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, nor any part of Central America;" and that neither party will "make use of any protection which either affords or may afford, or any alliance which either has or may have" with any State or people, for the purpose of occupying, fortifying or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.

Mr. Buchanan says, with regard to that portion of the foregoing sentence which restricts the use which Great Britain or the United States might make of any protection which either might afford to any State or people, it has been said that this article of the convention acknowledges by implication the protectorate of Great Britain over Mosquito. Now her majesty's government does not pretend that in this article the United States acknowledges the aforesaid protectorate of Great Britain in Mosquito; it was never the intention of her majesty's government, or that of the British nego-

tiator, to obtain indirectly that which was not asked for openly ; but it is evident that this article clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito, or any Central American State, and that the intention of the parties was not to prohibit or abolish, but to limit and restrict such protectorate. But supposing all mention of protection in the treaty had been omitted, and that the question at issue merely rested on the words, "colonize, fortify, occupy and assume or exercise dominion over," is there any one of these terms which excludes the right of protection, although each of them limits its capability? Defending or protecting is a temporary act of friendship ; occupying, colonizing, fortifying, or acquiring sovereignty, are acts which have a permanent result.

It has never been held that neutral territories or kingdoms, over which other kingdoms are prohibited by treaty from acquiring dominion—which other kingdoms cannot colonize, occupy, nor fortify—may not be defended by such kingdoms at the desire and request of the neutral States, although it would doubtless be necessary for any nation undertaking such defence to declare formally and promise clearly that it would not turn this transitory and allowable act into one of a continuous nature, which engagements had prohibited.

No one will maintain that the bar to colonization or fortifying is a bar to all protection ; no one will assert that to afford protection to a State and establish dominion over it are necessarily the same thing ; no one will contend that to send a naval or military force for the purpose of expelling an enemy from the territory of an ally, or of punishing his antagonist, is to hold or occupy the territory of that ally or of his enemy.

Were this the sense of the word, as inserted in the treaty of 1850, as that word is equally applied to all Central America as well as to Mosquito, it would have a far wider signification than her majesty's government contemplated, or than the United States government would in all probability admit, for in such a case neither Great Britain nor the United States could, in any circumstance, employ force, naval or military, against any Central American State, however great or just the provocation they might receive,

The citizens of the United States, for instance, might, on their way from California to Washington, be arrested and confined, on any suspicion or pretext, and the demands of the United States for their release refused. But is it to be argued that, under such cir-

cumstances, the United States could not send an armed force into Nicaragua to compel the release of the citizens from California, and chastise those who had unjustly incarcerated them? The United States government, however, would be bound to state the object it had in view in sending a force into Nicaragua; it would be bound to declare that it did not mean to colonize, fortify, occupy, or establish its sovereignty over Nicaragua, and by adhering to this pledge its treaty obligations would be fulfilled. But surely this dispute, as to the nature and meaning of protection, is one that should not have arisen with respect to the treaty of 1850. The very object and nature of that treaty ought to be manifest that protection is not equivalent to occupation or sovereignty, and that it does not of necessity imply the acquisition of any exclusive advantages to the parties protecting, or give those parties exclusive control over that which is protected.

Great Britain and the United States, by the said treaty, bind themselves to protect certain canals or railways, which may be formed through various independent States. Great Britain and the United States do not, by this protection, acquire any right of sovereignty or occupation over such canals or railways, whilst they carefully exclude themselves from having any exclusive control over them, and from deriving from them any exclusive privileges.

It is surely unnecessary further to discuss the construction of the treaty with reference to the protection of Mosquito. That her majesty's government merely expresses now that view of the treaty which it entertained, and which it had understood that the government of the United States entertained, when the treaty was concluded, is evident from the fact that, within little more than a month after the treaty of 1850 had been ratified, her majesty's minister at Washington entered into further negotiations with the government of the United States relative to the position of Mosquito, interpreting the treaty as her majesty's government now interprets it. That there was nothing extraordinary, unnatural or unfair, in the interpretation thus given to the treaty by her majesty's government, is equally evident from the fact that such interpretation was at once accepted by the Secretary of State, Mr. Webster, than whom no statesman at that time living, whether in Europe or America, was more fitted to comprehend the spirit or analyze the wording of any international obligation; and that her majesty's government was not at that time, and is not now, animated by any such object as that of obtaining any peculiar influence or control

over the river San Juan or the canal that may be formed from its waters, is likewise demonstrated by the circumstance worth noting, that the object which Great Britain had in view in pursuing these further negotiations with the United States, was that of withdrawing her protection from the very town called Greytown, or San Juan de Nicaragua, and the adjoining territory, and of placing the same in the hands of some Central American State, on conditions in no wise beneficial to herself, or only beneficial in so far as such conditions tended to maintain a state of peace and tranquility in that part of the world to which they related, and to preserve the Mosquitos in a territory bordering that which was to be ceded in an inoffensive state of neutrality and security.

Indeed, when her majesty's minister, in a conversation which took place about the end of July, 1851, on this subject, agreed, on the part of the British government, to assign Greytown to Nicaragua, upon her coming to a fair settlement with Costa Rica as to some of the points of contention between them, and upon her agreeing to leave the Mosquito people unmolested within certain portions of the territory which they now occupy, and over which the Spanish dominion never, otherwise than nominally, extended, Mr. Webster, whilst observing that the United States had no direct interest in any question concerning Nicaragua and Mosquito, except as respected the construction of a canal and its free navigation, and that, consequently, he did not wish to take an active part in any negotiations extending beyond these limits, added, addressing himself to the Nicaraguan minister, who was present, that he considered the offer made by the British minister was one which the Nicaraguan government might consider as a fair basis for an arrangement, and her majesty's government then entertained the hope and belief that by the friendly understanding subsisting between Great Britain and the United States, and the joint efforts of both, such a settlement would be speedily concluded between all the parties interested as would enable her majesty's government to release itself from the duty of protecting or defending Greytown, in which, for the time being, a self-elected body, in a great measure composed of United States citizens, was carrying on the government in the name of the king of Mosquito.

The preceding observations comprise all that her majesty's government has now to say with regard to that portion of Mr. Buchanan's statement, to which they have been intended to reply.

But although the connexion of Great Britain with Mosquito

formed one of the subjects of Mr. Buchanan's communication, another subject, not less important, is the actual condition of British Honduras, Ruatan, and the Bay Islands.

It was never in the contemplation of her majesty's government, nor in that of the government of the United States, that the treaty of 1850 should interfere in any way with her majesty's settlement at Belize, or its dependencies.

It was not necessary that this should have been particularly stated, inasmuch as it is generally considered that the term "Central America," a term of modern invention, could only appropriately apply to those states at one time united under the name of the "Central American republic," and now existing as five separate republics; but in order that there should be no possible misconception at any future period relative to this point, the two negotiators, at the time of ratifying the treaty, exchanged declarations to the effect that neither of the governments they represented had meant in such treaty to comprehend the settlement and dependencies in question.

Mr. Clayton's declaration to her majesty's government on this subject was ample and satisfactory, as the following extract from his note of July 4, 1850, will show :

"The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by the government, and it was neither understood by them, nor either of us (the negotiators) to include the British settlement in Honduras, (commonly called British Honduras,) as distinct from the State of Honduras, nor the small islands in the neighborhood of that settlement, which may be known as its dependencies.

"To this settlement and to these islands the treaty we negotiated was not intended by either of us to apply. The title to them, it is now and has been my intention, throughout the whole negotiation, to leave as the treaty leaves it, without denying or affirming, or in any way meddling with the same, just as it stood previously.

"The chairman of the committee on foreign relations of the Senate, the Hon. W. R. King, informs me that the Senate perfectly understood that the treaty did not include British Honduras." Such having been the mutual understanding as to the exception of the settlement of Belize and its dependencies from the operation of the treaty, the only question relative to this settlement and its dependencies, in reference to the treaty, that can

now arise, is as to what is the settlement of Belize and its dependencies, or in other words, as to what is British Honduras and its dependencies? Her majesty's government certainly understood that the settlement of Belize, as here alluded to, is the settlement of Belize as established in 1850; and it is more warranted in this conclusion from the fact that the United States had, in 1847, sent a consul to this settlement, which consul had received his exequatur from the British government, a circumstance which constitutes a recognition by the United States government of the settlement of British Honduras under her majesty as it then existed.

Her majesty's government at once states this, because it perceives that Mr. Buchanan restricts the said settlement within the boundaries to which it was confined by the treaty of 1786, whilst her majesty's government not only has to repeat that the treaties with old Spain cannot be held, as a matter of course, to be binding with respect to all the various detached portions of the old Spanish American monarchy, but it has also to observe that the treaty of 1786 was put an end to by a subsequent state of war between Great Britain and Spain; that during that war the boundaries of the British settlement in question were enlarged, and that when peace was re-established between Great Britain and Spain no treaty of a political nature, or relating to territorial limits, revived those treaties between Great Britain and Spain which had previously existed.

Her majesty's government, in stating this fact, declares distinctly, at the same time, that it has no projects of political ambition or aggrandizement with respect to the settlement referred to; and that it will be its object to come to some prompt, fair, and amicable arrangement with the States in the vicinity of British Honduras for regulating the limits which should be given to it, and which shall not henceforth be extended beyond the boundaries now assigned to them.

As to Ruatan and the adjoining islands, all that can be debateable as to them is, whether they are island dependencies of Belize or attached to some Central American State. Now it cannot be disputed, that whenever Ruatan has been permanently occupied, either in remote or recent times, by anything more than a military guard or flag staff, the occupation has been by British subjects.

It is true that the republic of Central America declared that it had had a flag flying in that island from 1821 to 1839; but this fact merely rested on that republic's declaration, and all that is positively known is, that when the British government were aware that

a foreign flag was flying at Ruatan, a British ship-of-war was sent to haul it down, and since that time no attempt has been made to re-establish it; but on the contrary, when on two or three occasions complaints have been brought by the citizens of Central American States against the settlers in Ruatan, to the commandant at Truxillo, the commandant has referred them to Belize, telling them that the island was British.

It is, moreover, a fact that Ruatan has been, of late years, without any instigation on the part of her majesty's government, spontaneously occupied by British subjects, and that the superintendent of Belize has been in the habit of visiting the island, appointing the magistrates in it, and generally managing its affairs. In going back to ancient times it is also well known that, in 1742, the English were formally settled at Ruatan, and that in the Atlas of the West Indian islands, published by Jeffries, the king's geographer, in 1796, Rattan, or Ruatan, is colored as a British possession; and although this island and that of Bonacea have doubtless been at various times left unoccupied and at others claimed or held by other powers, it is certain that in 1838, 1839, and 1840, Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force.

These circumstances, without entering further into the subject, will at least prove that the pretensions of Great Britain to consider Ruatan and Bonacea dependencies of Belize is of long standing, and existed certainly at the period of the treaty of 1850. Indeed, Mr. Buchanan, in his statement, observes that Ruatan was occupied in 1850 by Great Britain.

But if Ruatan was at that time known to be occupied by Great Britain as a settlement of Belize, and the United States government, notwithstanding, considered it to have been a portion of Central America, and thereby comprehended in the treaty, which Belize and its dependencies were not, the United States government would, beyond doubt, have openly stated that it did not consider Ruatan included in the term "island dependencies," and Great Britain was therefore justified, since no such exception was made, in deeming that her claim to Ruatan as a part of the Belize settlement was not about to be disputed.

Her majesty's government deems that it has, by the foregoing observations, furnished an adequate reply to the statement of Mr. Buchanan, and proved that the obligations of the treaty have in no respect been infringed. But having performed this duty, her ma-

jesty's government desires to say that it would be far more to its satisfaction to arrange, on fair terms, any differences of opinion with the government of the United States, than to prolong discussion and argument respecting such differences.

It has also no difficulty in adding, that although it did not, by the treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit the exercise of that right; the practical difference between Great Britain and the United States with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the canal, which formed the origin and basis of the treaty of 1850, applies, is very small indeed. That difference does not turn upon the point whether Great Britain should retain her protection over the port and town of San Juan and the northern bank of that river, but upon the conditions on which that protection should be withdrawn.

In short, the practical question at issue, relative to Greytown and that part of the Mosquito country bordering upon the river San Juan, is not whether Great Britain should, directly or indirectly, exercise dominion over the same, but whether Nicaragua, or some other equally independent State, should obtain possession thereof in a manner consonant with the honorable obligations of Great Britain, the peace of the Central American continent, and the safety from persecution of the Mosquito Indians; or, on the other hand, whether Nicaragua should be put in possession of that territory in a manner almost certain to produce hostilities between Nicaragua and Costa Rica, and to lead to the persecution and destruction of the Mosquito people, an alternative to which Great Britain could not consent, and which the government of the United States could have no motive in requiring.

It is true that in that more remote portion of the Mosquito territory where the chief or king of the Mosquitoes himself resides a British consul or agent also resides, and this resident may often times be called upon to give his opinion or advice to the Mosquito government, as is usual when weak governments are in alliance with strong ones, more especially when those strong ones have agreed to protect the weak ones from external aggression, and may, therefore, reasonably expect to have such influence over their policy as may prevent them from giving just pretext for invasion.

It is true, also, that Englishmen may thus be in the councils of

the king of Mosquito, acting as his ministers, but Englishmen and Americans both hold the same position in the Sandwich Islands, the government of which is carried on by foreigners, but is nevertheless (and the race is Indian) considered and treated as independent. To alter this state of things might at the present moment be impossible, but her majesty's government would be ready and willing to enter into such engagements as should prevent Great Britain from receiving any privileges or advantages from the Mosquito government not granted to other States.

Her majesty's government can hardly anticipate any difficulty at this time with the United States respecting the continental establishment of Honduras, the limits of which, in 1850, were so well known and can be so easily ascertained, and which will not be extended; but having shown that its pretensions to the islands of Ruatan and Bonacea are of no recent date, and that they were unquestioned by the United States Government in 1850, her majesty's government cannot admit that an alteration in the internal form of government of these islands is a violation of the treaty, or affords a just cause of remonstrance to the United States.

There are at all times two modes of dealing with matters of business between nations, the one calculated to excite mutual irritation, the other to mitigate it; the one tending to prolong and increase differences, the other to diminish and remove them.

The latter is the mode which her majesty's government earnestly desires in the present instance to adopt and to see adopted, for it can hardly be necessary to say that there is no government with which the people and government of Great Britain more sincerely desires to live in intimate and friendly relations than that of the United States. It is in accordance with the spirit which her majesty's government thus distinctly avows that her majesty's government proposes to that of the United States.

That the two governments of Great Britain and the United States should at once endeavor to come to some friendly understanding as to the government which should be definitively formed at Greytown, in order to admit of the Mosquito authority being withdrawn therefrom; and as to the engagements which such government should enter into with regard to the claims of Costa Rica and the future non-molestation of the Mosquitos; and that the two governments should endeavor, in the same manner, to come to some friendly understanding as to the mode by which protection may be most effectually afforded to the Mosquito Indians.

It is the desire of her majesty's government not only to maintain the convention of 1850 intact, but to consolidate and strengthen it, by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate. Her majesty's government regrets that any misunderstanding should have arisen with respect to its terms; but it entertains the firm belief that by the explanations it has now given, and the proposals it makes, that misunderstanding will be completely removed.

CLARENDON.

[An extract of the above statement, viz.: Beginning at the words: "it was never in the contemplation of Her Majesty's Government," and running to and inclusive of the words, "be extended beyond the boundaries now assigned to them," appears as Document 39, in Special Message of President, 29th July, 1882, pp. 101-102.]

Messages and Documents.
1855-1856.
Part 1, p. 65.

5th May, 1854.

(Mr. Buchanan to Mr. Marcy.)

[Extract.]

[No. 31.]

LEGATION OF THE UNITED STATES,
LONDON, May 5, 1854.

SIR: Late on Tuesday evening last, I received the long promised and long delayed statement of Lord Clarendon on the Central American questions, dated on the 2nd instant, a copy of which I have now the honor to transmit. Accompanying this statement, I also received a private note from his lordship, apologizing "for the further delay that has taken place, owing to the Easter holidays, and the necessity of consulting some of my [his] colleagues who were out of town."

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY,
Secretary of State.

Messages and Documents.
1855-1856.
Part 1, p. 67.

12th June, 1854.

(Mr. Marey to Mr. Buchanan.)

[*Extract.*]

[No. 42.]

DEPARTMENT OF STATE,

WASHINGTON, June 12, 1854.

SIR: The perusal of Lord Clarendon's reply to your statement in regard to Central American affairs does not encourage hopes of a speedy adjustment of them.

* * * * *

I still indulge the hope, that by the array of facts and arguments bearing on the questions in difference in regard to Central American affairs, the government of Great Britain will be induced to abandon the main positions assumed by Lord Clarendon in his statement of the 2d ultimo.

This government can never yield to the pretension that the treaty of the 19th of April, 1850, was only prospective in its operation, and that Great Britain retained the right to hold on to all she then had or now claims to have had in Central America. It was certainly our expectation that she came under obligations to the United States, by that instrument, to withdraw from interference in Central American affairs, and this expectation is sustained by the language of the treaty. There is room for a fair difference of opinion as to the position she should in future occupy in regard to Belize or British Honduras. It was not the object of the President, as you will perceive by your general instructions, to direct you to insist that by the Clayton and Bulwer treaty she was bound to abandon the possession of the Belize. She had a right to occupy for a specific purpose a small district of country on the shore of the Bay of Honduras, but had no sovereignty over it. The character of this right, and the extent of territory to which it applied, are both clearly defined in her treaty with Spain of 1786. If this territory could be fairly considered within the limits of Central America, then the British possession of it was affected by the treaty, and this government might consequently claim the abandonment of the British occupation and dominion over it. The assertion of the claim upon Great Britain to abandon Belize as a terri-

tory included in the treaty is embarrassed by two considerations. First, by the notes which passed between the negotiators of the treaty at the time of exchanging ratifications; and, second, by the doubt as to its geographical position being within the limits of Central America.

Discovering on the part of the British government a disposition to escape from what are here regarded as the obvious stipulations of the treaty, the President would have you avoid embarrassing the negotiation by urging so questionable a matter as a right derived from the treaty for the surrender of Belize. He does not therefore instruct you to insist upon applying the stipulations of the treaty to that territory; but you will resist the British pretension to extend it to any part of Central America, or beyond the limits fixed to it in the Spanish treaty of 1786. You will also resist the British pretension to regard that territory as one of her colonies. She acquired no sovereign right in Belize under her treaties with Spain. Her treaty with Mexico, in 1826, only continued the limited right she had from Spain, and the very fact of treating with Mexico for the continuation of her usufruct of Belize was a clear acknowledgment that the sovereignty over it was in Mexico at that time.

While you will abstain from claiming the surrender of the possession of Belize under the Clayton and Bulwer treaty, you will resist the pretension of Great Britain to regard it as a colonial possession with sovereign rights, or to extend it beyond the limits designated in the original grant—the Spanish treaties of 1783 and 1786.

In a commercial point of view, the possession of Belize can now be of very little value to Great Britain; and, politically considered, it must be an incumbrance, unless she has undisclosed objects in view. Her persistence in claiming a right to it would indicate on her part a policy of retaining in her hands the means of annoying this country, and of interrupting its intercourse with its possessions on the Pacific. If it is her sincere desire to maintain peaceful relations with the United States, she would be ready for the accomplishment of such an important object to retire from so useless a possession.

An attempt on the part of Great Britain to extend Belize so as to include any part of Central America will be repudiating an express stipulation of the treaty of the 19th of April, 1850.

I cannot believe that the British government intends to hold the position that the Bay Islands are an appendage to Belize. Should

this be so, and she pertinaciously maintains it, there will be very little hope left for the success of your negotiation in regard to Central America. You have command of facts enough to drive her from this position, unless there is a determination to hold it against the clearest evidence and the strongest arguments.

Ruatan can only be desirable to Great Britain as a naval and military station, and for that purpose only as it would give her great facility in affecting injuriously our interests. Should she refuse to acknowledge it as a part of the State of Honduras, and retain possession of it for herself, the United States would clearly understand her object. A predetermination to interfere with our affairs thus manifested will render the continuance of our amicable relations with her precarious.

* * * * *

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Messages and Documents.
1855-1856, Part 1.
Pp. 93-113.

22d July, 1854.

(Remarks in reply to Lord Clarendon's statement of May 2, 1854.)

UNITED STATES LEGATION,
LONDON, July 22, 1854,

It would not seem necessary to extend these remarks by pointing out what might be deemed inaccuracies in Lord Clarendon's introductory resumé of the points in Mr. Buchanan's statement of January 6, 1854, nor of the order in which these points have been presented. It is sufficient to observe that the sixth and last point of this resumé embracing the true construction of the convention of April 19, 1850, and which was the first discussed in Mr. Buchanan's statement, being by far the most important, it is entitled to precedence.

The American government cordially reciprocates the desire expressed by that of Great Britain, "to live on intimate terms and friendly relations" with the United States. Strong bonds of interest and affinity ought to unite the two nations in perpetual peace and friendship. Mr. Buchanan therefore deplores the unhappy misunderstanding which exists between them, in regard to the construc-

tion of a convention, which it was believed on the part of the American government would terminate all their pre-existing difficulties in Central America. How unfortunate would it be if this convention, instead of settling, should only complicate these difficulties.

In replying to the British statement, whilst it has become his duty to maintain the proposition that Great Britain has failed to carry into effect the provisions of the convention—a subject in its nature intrinsically delicate—he will endeavor to perform the task in a manner consistent with the exalted respect which he entertains for Great Britain.

The rights and the duties of the parties must be regulated by the first article of the convention of April 19, 1850, and these observations shall, therefore, be primarily directed to the ascertainment of its true meaning. The following is a copy of its text : “ The governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal ; agreeing, that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America ; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to, or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same ; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connexion, or influence that either may possess, with any State or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the citizens or subjects of the other.”

In the course of these remarks it is proposed to maintain, that this article requires Great Britain to withdraw from the possession of Ruatan and the other Bay Islands, the Mosquito coast and the territory between the Sibun and the Sarstoon. The Belize settlement will demand a separate consideration.

What, then, is the fair construction of the article ? It embraces

two objects. 1. It declares that neither of the parties shall ever acquire any exclusive control over the ship canal to be constructed between the Atlantic and the Pacific by the route of the river San Juan de Nicaragua, and that neither of them shall ever erect or maintain any fortifications commanding the same or in the vicinity thereof. In regard to this stipulation, no disagreement is known to exist between the parties. But the article proceeds further in its mutually self-denying policy, and in the second place declares that neither of the parties will "occupy or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

We now reach the true point. Does this language require that Great Britain shall withdraw from her existing possessions in Central America, including "the Mosquito coast?" The language peculiarly applicable to this coast will find a more appropriate place in a subsequent portion of these remarks.

If any individual enters into a solemn and explicit agreement that he will not "occupy" any given tract of country then actually occupied by him, can any proposition be clearer, than that he is bound by his agreement to withdraw from such occupancy? Were this not the case, these words would have no meaning, and the agreement would become a mere nullity. Nay more, in its effect it would amount to a confirmation of the party in the possession of that very territory which he had bound himself not to occupy, and would practically be equivalent to an agreement that he should remain in possession—a contradiction in terms. It is difficult to comment on language which appears so plain, or to offer arguments to prove that the meaning of words is not directly opposite to their well known signification.

And yet the British government consider that the convention interferes with none of their existing possessions in Central America; that it is entirely prospective in its nature, and merely prohibits them from making new acquisitions. If this be the case, then it amounts to a recognition of their rights, on the part of the American government, to all the possessions which they already hold, whilst the United States have bound themselves by the very same instrument never, under any circumstances, to acquire the possession of a foot of territory in Central America. The mutuality of the convention would thus be entirely destroyed; and whilst Great Britain may continue to hold nearly the whole eastern coast of Central America, the United States have abandoned the right for all future time to

acquire any territory, or to receive into the American Union any of the States in that portion of their own continent. This self-imposed prohibition was the great objection to the treaty in the United States at the time of its conclusion, and was powerfully urged by some of the best men in the country. Had it then been imagined that whilst it prohibited the United States from acquiring territory, under any possible circumstances, in a portion of America through which their thoroughfares to California and Oregon must pass, the convention, at the same time, permitted Great Britain to remain in the occupancy of all her existing possessions in that region, Mr. Buchanan expresses the confident conviction, that there would not have been a single vote in the American Senate in favor of its ratification. In every discussion, it was taken for granted that the convention required Great Britain to withdraw from these possessions and thus place the parties upon an exact equality in Central America. Upon this construction of the convention there was quite as great an unanimity of opinion as existed in the House of Lords, that the convention with Spain of 1786 required Great Britain to withdraw from the Mosquito protectorate.

There is the strongest reason to believe that the same construction was placed upon the convention, by the government of Great Britain, at the time of its conclusion. If this were not the case, why their strenuous efforts, before the ratifications were exchanged, to have the British settlement of Belize specially excepted from its operation? Upon the opposite construction of the convention it ought to have been their desire to place that settlement under its protection, and thus secure Great Britain in its occupancy.

The conduct of the government of Great Britain, on this occasion, can be satisfactorily accounted for only upon the principle that, perceiving the language of the convention to be sufficiently explicit and comprehensive to embrace Belise, they must have made these efforts to prevent the necessity of their withdrawal from that settlement. And as no attempt was made to except any other of their possessions from its operation, the rule that *expressio unius est exclusio alterius* applies to the case, and amounts to an admission that they were bound to withdraw from all their other Central American possessions.

If this be the true construction of the convention, as well as its manifest spirit, then let us apply it to the objects it was intended to embrace. And first of Ruatan—thus, for the present, disembarassing ourselves from the Mosquito protectorate.

It is not denied by the British statement, that Ruatan "is clearly a Central American island," "and but thirty miles distant from the [Honduras] port of Truxillo." Indeed it was impossible that this could be denied. Why, then, is this island not embraced by the convention? The only reason given for it is the allegation that Ruatan and the adjacent islands were dependencies of Belize, and were protected from the operation of the convention by Mr. Clayton's declaration of the 4th July, 1850. Now admitting, for the sake of argument, that this declaration is binding on the United States, to what does it amount? Its language is very explicit. The convention was not understood by either of the negotiators, says Mr. Clayton, "to include the British settlement in Honduras, (commonly called British Honduras, as distinct from the State of Honduras,) *nor to the small islands in the neighborhood of that settlement which may be known as its dependencies.*"

"The small islands in the neighborhood of that settlement"—What are they? These are undoubtedly Cayo Casina and "the cluster of small islands" on the coast, at the distance of "three leagues from the river Sibun," particularly specified in the British convention with Spain of 1786. Indeed the same construction would seem clearly to have been placed upon this convention by the British minister at Washington, in his letter to Mr. Clayton of the 7th of January, 1854, a copy of which is doubtless in the possession of Lord Clarendon. It would be a strained construction of Mr. Clayton's carefully guarded language to make his "small islands in the neighborhood" embrace the comparatively large and very important island of Ruatan, with its excellent harbors, not in the neighborhood but hundreds of miles distant; an island represented "as the key of the Bay of Honduras and the focus of the trade of the neighboring countries," which is considerably larger, according to Captain Henderson, than many of the West India Islands, in cultivation; and in its soil and natural advantages not inferior to any of them. This would be to make the dependency far more valuable than the principal, and to engraft an absolute sovereignty upon a mere usufruct. And here it may be proper to observe, that the quotation "island dependencies" in the British statement, if intended to be made from any part of Mr. Clayton's declaration, is an incorrect quotation. His language is not "island dependencies," but "small islands in the neighborhood of Belize." This island is then clearly a Central American island in the neighborhood, not of Belize, but of the State of Honduras; and in the language of Mr.

Clayton's statement, so much relied upon, is one of "the proper dependencies" of that State, and is therefore embraced by the treaty. Indeed it would be little short of an absurdity for Mr. Clayton to have excepted, as it is contended he ought to have done, from his declaration, including only "the small islands in the neighborhood" of Belize, the distant, large and valuable island of Ruatan. And yet it is alleged, from his omission to do this, that Great Britain was justified "in deeming that her claim to Ruatan as a part of the Belize settlement was not about to be disputed."

The British statement seems to attach considerable importance to the fact, but why it is difficult to conceive, that "Mr. Buchanan in his statement observes that Ruatan was occupied in 1850 by Great Britain." It was for the very reason that not only Ruatan, but nearly the whole eastern coast of Central America, were occupied by Great Britain, that the government of the United States were so anxious to conclude a convention requiring her to withdraw from this occupation. It was for this reason that the United States, as an ample consideration for this withdrawal, bound themselves never to occupy any portion of Central America. But for this agreement to withdraw, the United States, in self defence, would have been compelled to accept cessions of territory in Central America; because, without such territory, Great Britain would have been left in a position absolutely to command not only the projected canal by the Lake Nicaragua, but all other canals and railroads which may be constructed through any part of the isthmus. The convention was, therefore, not confined to this single route, but extended its protection "to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America." Both parties were to stand aloof, and neither of them was to occupy territory in the vicinity of any of these routes, much less an island, which, from its position and excellent harbors, would enable a strong naval power in possession of it to close any canals or railroads which might be constructed across the isthmus.

Now, whether Great Britain was in the occupation of Ruatan at the date of the convention by a good or by a bad title, cannot make the least difference in regard to the construction of that instrument. The case might have been different had the question arisen between her and the State of Honduras. The question between the United States and Great Britain, however, is not as to the validity of her

title, but no matter what it may have been, whether she has not agreed to abandon her occupation under this title. Not what was the state of things before, but what she agreed it should become after the conclusion of the convention. Still, out of deference to the British statement, which contends that the British title was good to this island at the conclusion of the convention, it is but proper to examine the reasons on which this claim was founded.

Ancient possession is invoked to sustain this claim, and it is said that "it is well known that [in] 1742 the English were formally settled at Ruatan;" but, in reply, it may be stated that this possession was speedily abandoned. We are informed by Rees's Cyclopædia, published in London in 1819, that "the English, in the year 1742, formed a settlement here [in Ruatan] for the purpose of carrying on the logwood trade, *but it was soon abandoned.*"

In answer to the map published by Jeffries in 1796, cited by Lord Clarendon, it may be observed that there is another copy of the very same map in the British Museum, published in the same year, on which Ruatan is not colored as a British possession. At the date of this map, more than a half a century ago, the geography of that portion of America was comparatively but little known. For this reason, the map published at London in 1851, "by James Wyld, Geographer to the Queen," "of the West India and Bahama islands, with the adjacent coasts of Yucatan, Honduras, Caracas," &c., also to be found in the British Museum, is of much higher authority, and upon its face Ruatan and the other Bay Islands are assigned to Honduras. The same view is presented by the same author on a former "map of the West India and Bahama islands," &c., published in 1849, and now in possession of the legation.

It may also be confidently asserted as a well known historical fact, that if the English were in the occupation of Ruatan, at the date of the treaty with Spain of 1786, they abandoned it immediately thereafter in obedience to that treaty. Brook's General Gazetteer, published at London in 1853, distinctly states this fact. It says, "this beautiful island, partially covered with wood, was once in possession of the English, who fortified its excellent harbor, *but abandoned it when they withdrew from the Mosquito shore.*" And Johnson, in his Dictionary of Geography, published in London in 1851 and 1852, describes it as an island off the north coast of Central America, "*formerly belonging to the English.*"

"Near its southern extremity is a good harbor, with batteries erected by the English during their former occupation."

At what period, then, after the convention of 1786, did this island cease to be Spanish and become English? It is admitted by Captain Henderson, an officer of the British army, in his account of the British settlement of Honduras, an authority which will not be disputed, that it was still a Spanish island in 1804. The next we hear of it is that it was in the possession of Honduras, as the successor of Spain, in 1830, whilst the Confederation of the Central American States still continued to exist; and was in that year (not in 1835, as in the former statement) captured from that State by the British forces; but was soon afterwards restored. The following extract from Crowe's "Gospel in Central America," an able and interesting work, prepared after personal observation, and published in London, in 1850, gives a correct account of the transaction. The author says, 1830: "The only notable breach upon peace and good order was the seizure of the island of Ruatan, in the bay of Honduras, by the authorities of the neighboring British settlement. But upon complaint by the federal government, the act of the superindendent of Belize was theoretically disallowed by his government, though it has since been practically repeated in precisely the same quarter and under the sanction of the same power." There is other evidence of a similar character in possession of Mr. Buchanan, but as it proceeds from American sources it is deemed best to let the facts, especially as they have not been contradicted by the British statement, rest upon the authority of a British author of highly respectable character. The author then proceeds to speak in indignant terms of its second capture and annexation in 1841, denouncing it as an "inglorious revolution."

Lord Clarendon, in his statement, admits that this island and that of Bonacea "have doubtless been at various times left unoccupied, and at others claimed or held by other powers;" but says, "it is certain that in 1838, 1839, and 1840, [it ought to have been in 1841,] Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force."

That is, in substance, that Great Britain captured this island from Honduras in 1841, and expelled the troops of that state from it, and now maintains that this capture gives her title. It is impossible that Great Britain can claim this island by the right of conquest, because the capture was made at a time of profound peace. She cannot convert the very act of which Honduras complains as a wrong and an outrage, into the foundation of British title. Of the manner in

which the seizure of Ruatan was made by the superintendent of Belize, in 1841, Mr. Crowe speaks in the following language :

" As he expected, Colonel Macdonald found only a few inhabitants, under care of a sergeant, and a small detachment of soldiers belonging to the state of Honduras. These being incapable of resistance, he proceeded to haul down the flag of the republic, and to hoist that of Great Britain in its stead. No sooner, however, had he re-embarked, then he had the mortification of seeing the Union Jack replaced by the blue and white stripes of Honduras. He subsequently returned and completed the inglorious revolution, by taking such precautions and making such threats as he thought necessary."

The British statement contests the principle, that the Central American provinces, having by a successful revolution become independent states, succeeded, within their respective limits, to all the territorial rights of Spain.

As the statement presents no reason for denying this principle, it is not deemed necessary to assign reasons in its support in addition to those of a former American statement. The principle cannot, it is conceived, be successfully controverted. Were any third power permitted to interpose and seize that portion of territory which the emancipated colony could not defend, all powers might exercise the same right, and thus the utmost confusion and injustice would follow. If Great Britain could seize Ruatan, France might have taken possession of another portion of Honduras, and the United States of a part of San Salvador; and thus a successful revolution, instead of proving a benefit to those who had asserted and maintained their independence, would give rise to a general scramble among the nations for a proportion of the spoil.

But the British statement not only denies that her treaty with Mexico of the 26th of December, 1826, is a recognition of the principle asserted, but maintains that it proves the contrary.

At the date of this treaty Great Britain was in possession, for special purposes, of the usufruct of Belize, which she had acquired from Spain under the treaty of 1786. Upon what other principle could she have solicited and obtained from Mexico an agreement that British subjects should not be disturbed in the enjoyment of this limited usufruct, unless upon the principle that Mexico had inherited the sovereign rights of old Spain over the Belize settlement? Had she then intended to claim this settlement in absolute sovereignty, she never would have sought and obtained from Mexico a continu-

ance of her special license. The idea of an absolute owner asking a special permission to use his own property in a particular manner, from a person in whom he recognizes no title, would be, to say the least, a novelty, if not an absurdity. Greatly to her credit and her good faith, however, Great Britain agreed to hold under Mexico in the very same manner she had held under old Spain, and thus clearly recognized the rights of Mexico.

How does the British statement answer this argument? It says that the treaty "simply stipulated that British subjects should not be worse off under Mexico independent than under Mexico when a Spanish province." And "it was natural, in recognizing the independence of Mexico, that Great Britain should make such a stipulation." It was certainly natural that she should do this, but only on the principle that Mexico might otherwise have asserted her rights as the successor of old Spain, and at any moment have terminated the license.

The British statement observes, that, since the capture of the island in 1841, no attempt has been made by Honduras to recapture it; and that the commandant of Truxillo, when on two or three occasions complaints had been made to him for redress against the settlers of Ruatan, had referred them to Belize, telling them that the island was British. But what inference can be drawn from these facts? Honduras, from her feebleness, has been compelled to submit, and to resort to the only remedy which the weak have against the powerful. Complaints and protestations against the act, which she has never ceased to make, have been her only resource. How ridiculous it would have been for her to have attempted to recapture this island from Great Britain. And the commandant of Truxillo would, as a matter of course, refer complainants against the settlers in Ruatan to Great Britain for redress—the power in possession, and the only power in existence which could apply the remedy.

If, therefore, the question depending had been between Great Britain and Honduras, and the point to be decided by an impartial umpire were, which of the two powers held the best title to the island, there could be but little doubt, it is conceived, what would be his decision. But, as before remarked, the question is not between these parties, but between Great Britain and the United States. Its decision does not depend upon the validity or invalidity of the British title, but whether Great Britain has bound herself by treaty with the United States not "to occupy, or fortify, or colonize,

or assume or exercise any dominion over" Ruatan. Under these circumstances, it was not the duty of the United States, as is alleged, at the conclusion of the convention of 1850, to have formally contested the title of Great Britain to this island. Such a course could only have produced useless irritation. It was sufficient for them to know that Great Britain, being in the occupation of it, no matter by what title, had agreed to withdraw from this occupation.

But "her majesty's government cannot admit that an alteration in the internal form of government of these islands is a violation of the treaty, or affords a just cause of remonstrance to the United States." What are the facts of the case? When the treaty was concluded Great Britain was simply in the occupation of Ruatan, under the capture made by Colonel Macdonald. She had established no regular form of government over its few inhabitants, who, to say the least, were of a very heterogeneous character. She had then taken but the first step, and this in the face of the remonstrances of Honduras, towards the appropriation of the island. No trouble could have been anticipated by the United States in regard to this island. No doubt could have been entertained but that Great Britain would promptly withdraw from it after the conclusion of the treaty. Her relation towards Ruatan at this time was merely that of a simple occupant. From this occupancy it was easy to retire, and the island would then have naturally reverted to Honduras. Instead, however, of taking one step backward, the government of Great Britain has since taken a stride forward, and has proceeded to establish a regular colonial government over it. But this is not all. They have not confined themselves to Ruatan alone, but have embraced within their colony five other Central American islands off the coast of the State of Honduras. One of these, Bonacea, says Bonnycastle, is an island about sixty miles in circumference, and is supposed to be the first island which Columbus discovered on his fourth voyage. It was not known, however, in the United States that the British government had ever made claim to any of these five Central American islands previous to the proclamation announcing their colonization. Indeed, the British statement nowhere asserts that any of them had ever been occupied at any period by Great Britain before their incorporation with Ruatan and the establishment in 1851 of the colony of the "Bay Islands."

In this manner has the feeble State of Honduras been deprived of every valuable island along her coast, and this is now completely commanded by the impending power of Great Britain.

The government of the United States view the establishment of the colony of the "Bay Islands" in a still more unfavorable light than they do the omission on the part of the British government to carry the provisions of the treaty into effect, They feel this to be the commission of a positive act in "palpable violation both of the letter and spirit of the Clayton and Bulwer convention."

2. THE MOSQUITO PROTECTORATE.

It does not seem necessary to add arguments to those of the former American statement for the purpose of proving that the Mosquito protectorate has been abolished by the Convention. This point has nowhere been directly met throughout the British statement by arguments drawn from the body of the treaty itself. These remarks shall, therefore, be confined to the topics presented in the British statement.

In this discussion, as in the case of the Bay Islands, it ought ever to be borne in mind that it is the true construction of the convention which is mainly to be ascertained and enforced, and not the historical circumstances and events which either preceded or followed its conclusion.

The admission is noticed with satisfaction that the United States had not, under the convention, acknowledged the existence of the British protectorate in Mosquito. This relieves the argument from much embarrassment and the American negotiator from the imputation of having done an act which would have been condemned by his country.

It is also repeatedly admitted, that although the British government (to employ its own language) "did not, by the treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit that right" Had the statement proceeded one step further, and specified in what manner and to what extent the British government intended to reduce and limit this right, the controversy on this point might then, for all practical purposes, have been settled. Why? Because Lord Clarendon must have resorted to the convention itself for the limitations imposed on the protectorate; and this would have informed him that it shall never be used for the purpose of "occupying" the "Mosquito coast," "or of assuming or exercising dominion over the same." Let Great Britain no longer employ it for these purposes; let her cease to occupy this coast and exercise dominion over it, and

although not all the convention requires, yet for every essential object this would prove sufficient.

The British statement, strangely enough, first proceeds to discuss, at considerable length, what it terms "the spirit" of the treaty, which, it says, "must always be inferred from the circumstances under which it takes place; and afterwards, in a very few lines, disposes of the great question of the true construction of its language. This entirely reverses the natural order of things. Vattel informs us, in his chapter on "The Interpretation of Treaties," that "the first general maxim of interpretation is, that *it is not allowable to interpret what has no need of interpretation*. When a deed is worded in clear and precise terms, when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it, is but an attempt to elude it. If this dangerous method be once admitted, there will be no deed which it will not render useless."

It was, therefore, incumbent upon the British statement, first, to prove that the language of the convention is obscure, (a most difficult task,) before it could properly resort to extraneous circumstances to explain its meaning. Nevertheless, following the order of the statement, a reply shall first be given to the circumstances adduced.

But, as preliminary to these, the statement branches off into a declaration "that Mr. Buchanan confounds the two conditions of a sovereignty and a protectorate, and under this error treats the agreement 'not to colonize, nor occupy, nor assume, nor exercise dominion over,' as including an agreement not to protect." Now, admitting for the sake of argument, that these words do not include "an agreement not to protect," they do at least limit this protection, so that it cannot be employed for the purpose of occupying or exercising dominion over the Mosquito coast. Let this be granted, and the United States need ask but little more.

No foundation, however, is to be found in Mr. Buchanan's statement for the criticism, that he had confounded two things so distinct in their nature as "a sovereignty and a protectorate." Indeed, he does not even use the word "sovereignty" in connexion with this topic, throughout his whole statement. On the contrary, he has carefully confined himself to the language of the convention itself, and employed only the words "occupy" "or assume or exercise dominion."

The American government have never treated the protectorate claimed by Great Britain as one which could be recognized by public law. They well knew, from the savage and degraded character of the Mosquito Indians, that no treaty of protection could exist between her Britannic majesty and the king of the Mosquitos, such as is recognized among civilized nations. Under such a treaty, the protected power reserves to itself the right of administering its own government, a right which it was impossible for the Mosquitos to exercise.

This nominal protectorate must, therefore, from the nature of things, be an absolute submission of these Indians to the British government, which, in fact, it has ever been. For these reasons, the American statement has everywhere treated Great Britain as in possession of the Mosquito coast, and in the exercise of dominion over it, in the same manner as though she were its undisputed owner; and has contended that she is bound by the treaty to withdraw from this possession and the exercise of this dominion. This is the substance. All the rest is mere form. In this point of view, it is wholly immaterial whether the relations of the Mosquito Indians towards Great Britain be called a protectorate, a submission, or by any other name. The great object of the convention, as understood by the government of the United States, is, that she should cease to occupy the Mosquito coast, no matter by what name, or under what claim it is retained.

The leading, indeed it may almost be said, the only circumstance adduced to illustrate "the spirit" of the convention, and to bear upon its construction, is a correspondence, which took place at London, in November, 1849, between Mr. Lawrence and Lord Palmerston. It is thus sought to convert this preliminary correspondence, which occurred several months before the convention was concluded, between different individuals, into the means of changing and limiting the meaning of the language afterwards employed by the actual negotiators. By such means, all agreements between private parties, and all treaties between sovereign states might be annulled. When the final agreement is once concluded, the preliminaries become useless. Like the scaffolding of a building, they are cast aside after the edifice has been erected.

But even if such a process were legitimate, there is nothing in this correspondence which, so far from weakening, does not fortify the construction placed upon the convention by the government of the United States. Mr. Lawrence first asks Lord Palmerston, as

the primary object," whether the British government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America?" and then inquiries "whether the British government will unite with the United States in guaranteeing the neutrality of a ship canal, railway, or other communication, to be opened to the world and common to all nations?" In reply, Lord Palmerston says, "that her majesty's government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America;" and he also gave an equally satisfactory answer to the second inquiry of Mr. Lawrence.

Now, what inference does the British statement draw from this language? It is that as the correspondence, which is alleged to have been before the negotiators, does not refer to the Mosquito protectorate by name, therefore they must have intended that this should remain untouched by the treaty. But no inference can prevail against a positive fact. If the correspondence be silent in regard to the protectorate, not so the convention. This expressly embraces it, and declares, "nor will either [of the parties] make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people for the purpose (of erecting or maintaining any such fortifications or) of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same."

But even if the convention had not contained this express stipulation in regard to the Mosquito protectorate, and had simply provided for carrying into effect the intention expressed by Mr. Lawrence and Lord Palmerston, that neither of the parties should "occupy or colonize" "the Mosquito coast," this would, it is conceived, have been abundantly sufficient to bind Great Britain to withdraw from its occupation. In point of fact, it resulted from abundant caution alone that the clause just quoted from the convention was superadded, prohibiting Great Britain, whether under the name of a "protection" or "alliance," from "occupying" "the Mosquito coast," "or of assuming or exercising dominion over the same."

In reference to the "literal meaning of the convention," which is certainly the main point, the British statement occupies but a few lines, and avoids any direct discussion of the language which it employs. Indeed, the construction for which the government of the United States contends is substantially admitted. The statement,

after quoting the provisions of the article, and asserting that it "clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito, or any Central American State," concedes that whilst it was not the intention of the parties to prohibit or abolish, it was their intention "to limit and restrict such protectorate." Let there be no dispute about words on so grave a question. How did the convention limit and restrict this protectorate? It does this, as before observed, by prohibiting both parties from using "any protection which either affords" for the purpose of occupying or exercising dominion over the Mosquito coast.

Throughout that portion of the argument arising out of the correspondence between Mr. Lawrence and Lord Palmerston, and indeed in other parts of it, the British statement has treated the joint protection of the two governments to the Nicaraguan canal as though this were the principal and almost the only feature of the convention. Such expressions as these are employed: "The mere protectorate of Great Britain, stripped of these attributes which affected the construction and freedom of the proposed canal, was of small consequence to the United States." It is again treated as "a matter of indifference, so far as the canal is concerned, as to whether the port and town of San Juan are under the modified protectorate of Great Britain or under the government of Nicaragua." And again, "The practical difference between Great Britain and the United States, with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the canal, which formed the origin and basis of the treaty of 1850, applies, is very small indeed," &c., &c.

These are but very partial and limited expositions of the motives which gave birth to the convention. It consecrated a policy far more extended and liberal. The convention was not confined to a single route, but embraced all the routes, whether for railroads or canals, throughout Central America. To employ its own language, it agreed to extend the protection of the two governments, "by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama." Over all such routes, Great Britain and the United States have bound themselves to cast the ægis of their protection, not for their own exclusive benefit, but for that of all the

commercial nations of the earth. It was to avoid all jealousies between themselves, as well as those which might arise against either or both on the part of other nations, that they agreed, not merely that neither of them would erect fortifications on the single route of the San Juan, or in its neighborhood, but also, that neither would directly, or by virtue of any protectorate or alliance, "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." Without this latter provision the former would have been vain. The prohibition of occupation was, therefore, co-extensive with the whole territory over which such canals or railroads might pass.

Viewing the treaty in the light of its own extended and liberal provisions, it was a matter of some surprise that the British statement should have confined itself merely to a proposition for the two governments to enter into some arrangement whereby Great Britain may withdraw her protectorate from the port and harbor of Greytown and the northern bank of the San Juan, thus leaving the residue of the Mosquito coast in its present condition.

The government of the United States can become a party to no such arrangement. It stands upon the treaty which it has already concluded, firmly believing that under this Great Britain should, more than four years ago, have ceased to occupy or exercise dominion over the whole and every part of the Mosquito coast. It cannot, therefore, now enter into any new stipulation confined to the port of Greytown and the northern bank of the San Juan. Such an agreement could only lead to fresh complications; and besides, would be a tacit admission, which the United States cannot make, that the convention of 1850 did not embrace the entire Mosquito coast, as well as every other portion of Central America. All that the government of the United States deem it proper to do under existing circumstances, is to persist in their efforts to induce Great Britain to withdraw from the entire coast. This object once accomplished, the treaty will then have its full and beneficent effect. The two powers can then proceed in harmony to procure from the proper Central American States the establishment of two free ports, one at each end of the canal, and successfully to interpose their good offices to settle all existing disputes concerning boundaries between these States. It is manifest, however, that nothing of this kind can be accomplished; there can be no settlement of Central American affairs whilst Great Britain shall persist in expressing a determination to

remain in possession, under the name of a protectorate, of the whole coast of Nicaragua on the Carribean sea.

The Earl of Clarendon has been already informed, that the government of the United States, from motives of humanity, are willing to unite with Great Britain in inducing the State of Nicaragua to assign a suitable portion of her territory for the occupation of the miserable remnant of the Mosquito tribe. This, however, upon the principle always recognized by Great Britain and the United States, in the treatment of their own Indians, that the ultimate dominion and absolute sovereignty belong to Nicaragua; the Mosquitos having a right of mere occupancy, to be extinguished only by the state of Nicaragua.

How unfortunate is the condition of Nicaragua! Her title to all the territory embraced within the limits of the ancient province of that name is perfect. This she has acquired, not only by a successful revolution, but she holds it under a solemn treaty with Spain. This treaty, concluded at Madrid on the 25th of July, 1850, recognizes her sovereignty and independence, as well as her right "over the American territory situated between the Atlantic and Pacific seas," and "from sea to sea," "with its adjacent islands, known before under the denomination of province of Nicaragua, now republic of the same name." And yet her eastern coast is covered in its whole extent by the Mosquito protectorate, and she is deprived of every outlet to the Caribbean sea. Her port of San Juan has been seized by British troops, and that of Bluefields is the residence of the king of the Mosquitos, and the seat of the British dominion.

An effort has been made to assimilate the case of the British protectorate over the Mosquitos to that of Englishmen and Americans, acting as ministers to the king of the Sandwich Islands. But there is no parallel between the cases. The inhabitants of the Sandwich Islands are not degraded savages, but a Christian people; and the government of their king has been recognized by the principal powers of the earth. He possesses the right to select foreigners for his ministers, as other sovereigns have frequently done; but these, in the exercise of their functions, are totally independent of their own governments.

It is alleged that a British consul or agent resides in Mosquito, who "may oftentimes be called upon to give his opinion or advice to the Mosquito government." But it is notorious—and from the degraded character of the Indians it cannot be otherwise—that the Mosquito government is exclusively the British government, exer-

cised through the agency of this consul. It is through him that the British government, in the name of this mere shadow of a king, captures the seaports of his neighbors by the employment of British forces alone, and exercises dominion over the entire so-called Mosquito coast. We have the nothingness of the Mosquito government and the king graphically delineated by two eminent British statesmen of the present cabinet. Truly this government is but a "*fiction*," whilst that of Great Britain is the substantial reality.

The British statement, after defining the general distinction between "sovereignty" and "defence or protection," presents the consequences which might arise if an agreement "not to occupy or exercise dominion over" should prohibit either party from the performance of certain enumerated acts, either for or against the Central American States. As these remarks are merely hypothetical, and do not seem to have any direct bearing upon the great question pending between the parties, it is deemed unnecessary to prolong this statement by a reply to them *seriatim*. They may be well or ill-founded; but it is inconceivable in what manner they bear upon the simple question under the treaty, which is, shall Great Britain continue to occupy or exercise dominion over the Mosquito coast? not what acts she may perform, without a violation of the convention, after she shall have withdrawn from this occupation and the exercise of this dominion.

Opinions are referred to, said to have been expressed by Mr. Webster, concerning the convention; but this is to be expounded according to its own text, and not by the mere incidental dicta of any man, no matter how eminent.

And here all has been said which either directly or remotely touches the merits of the Mosquito question, but as several other topics have been introduced, it would be improper to pass over them in silence.

The statement declares, in reference to the Mosquito protectorate, that Great Britain "will not enter into any explanation or defence of her conduct with respect to acts committed by her nearly forty years ago." Be it so. Such an explanation is not solicited by the United States. Still it is but just to observe that the British government first set the example of discussing their ancient right to the Mosquito protectorate; and this is the only reason given in the former American statement for presenting "the views of the government of the United States on the subject."

It is highly satisfactory, however, to observe that the British

statement, instead of relying upon acts of the English on the Mosquito coast for centuries, limits these within a period of less than forty years anterior to the present date. It is possible that the former American statement may have done some good in effecting this change by causing Lord Clarendon to re-examine the treaties of 1783 and 1786, and to refer to the history of the time, in which additional proof has been found, not now necessary to be presented, in confirmation of the construction placed upon these treaties by the American government.

It would still have been interesting, as a historical fact, to learn at what time, "nearly forty years ago," under what circumstances, and upon what terms, Great Britain again entered upon Mosquito, after having acknowledged the sovereignty of Spain over it in 1683 and 1786, and surrendered it to that power.

The British statement proceeds to allege that, since the peace of 1815, old Spain had never raised any question with the British government respecting the Mosquito protectorate. This is doubtless the case, because old Spain, from the intimate relations of friendship which had existed between the two governments since their treaty of alliance in 1809, could not have suspected that Great Britain was renewing her connexion with the Mosquitos; and soon after "the acts committed by her nearly forty years ago," the Spanish American revolutionary war commenced, which would naturally prevent the Spanish government from bestowing its attention on a matter so comparatively unimportant.

The statement then denies that, by the British treaty with Mexico of 1826, Great Britain had recognised the right of the Central American States, having achieved their independence, to the territories respectively included within their boundaries, as these had formerly existed under old Spain. As this point has been discussed in a former portion of the present statement, it is not now necessary to add anything to what has already been said.

But, again, argues the British statement, even supposing that these States did inherit the right of old Spain, they made no remonstrance "for many years after the protectorate of Great Britain over Mosquito had been a fact well known to them."

Surely the British government does not mean to contend that the omission of these feeble States, agitated in the first place by a revolutionary war, and afterwards by domestic dissensions, to make such remonstrances would confer upon Great Britain the right to deprive them of their territory? Besides, if it were necessary to

go into the question, it might be proved that not many, but only a few years had elapsed before these States did remonstrate against the encroachments of Great Britain.

The statement next asserts, that although the government of the United States, in 1842, knew of the existence of the British protectorate, yet they did not complain of it until 1849. And from this what is to be inferred? The United States had no right, under any treaty with Great Britain, to interfere in this question until April, 1850. But even if they had been directly interested in the territory, as Nicaragua was, is there any statute of limitations among nations, which, after six years of unlawful possession, deprives the true owner of his territorial rights?

Had the United States interfered in this question before the conclusion of the convention of 1850, this could only have been done under the Monroe doctrine; and then they would have been informed, as they have already been in the British statement, that this doctrine "can only be viewed as the dictum of the distinguished personage who delivered it; but her majesty's government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European states."

But it must not be inferred, from what has been said, that without this convention the government of the United States would not have eventually interfered, in obedience to the Monroe doctrine, to prevent, if possible, any portion of Central America from being permanently occupied or colonized by Great Britain.

Neither is Lord Clarendon correct in supposing that this doctrine is but the mere "dictum" of its distinguished author. True, it has never been formally sanctioned by Congress; but when first announced, more than thirty years ago, it was hailed with enthusiastic approbation by the American people; and since that period, different Presidents of the United States have repeated it in their messages to Congress, and always with unmistakable indications of public approbation.

If the occasion required, Mr. Buchanan would cheerfully undertake the task of justifying the wisdom and sound policy of the Monroe doctrine, in reference to the nations of Europe, as well as to those on the American continent.

The British statement proceeds to enumerate several instances, commencing in November, 1847, extracted from the report of Mr. Clayton to the President, in July, 1850, in which no answers were returned by the government of the United States to appeals made

by or on behalf of the State of Nicaragua for our interference to arrest the progress of British encroachments in Central America.

Surely the war then pending between the United States and Mexico was sufficient to account for this temporary omission, without attributing it to any indifference to the proceedings of Great Britain against Nicaragua.

But even before this war was finally terminated by a treaty of peace, and after the capture of San Juan by the British forces, President Polk, in April, 1848, gave a public pledge to the world, in strong terms, of his adherence to the Monroe doctrine, as he had already done in two previous messages. Besides, in December, 1847, he asked an appropriation from Congress to enable him to send a minister to Guatemala; and this minister was accordingly dispatched, with instructions which have been published, having distinctly in view the adoption of measures necessary to give effect to this doctrine in Central America.

The British statement, whilst admitting that, under the former principles and practice of European nations in regard to their treatment of the Indian races, the Mosquitos would have no right to rank as an independent State, yet indicates that Great Britain has changed her conduct in this respect. As examples of great changes in other respects which have occurred in modern times, and as an excuse or justification for her own change, the British statement cites the suppression of the African slave trade, and the establishment of the republic of Liberia. Neither of these would seem to be very wonderful. They both occurred in the natural progress of events, from the advance of civilization and the efforts of wise and benevolent men. But the British government will have performed a miracle if they can convert the debased and degraded race of Mosquito Indians, such as they have been described without contradiction in the American statement, into citizens or subjects of a really independent and sovereign nation.

The British statement also declines to furnish "the grounds on which her majesty's government made the capture of San Juan de Nicaragua," and it is, therefore, scarcely necessary to pursue this branch of the subject. If it were, it would be easy to add proofs to those contained in the former American statement, that this was never a mosquito port, in any sense, but always, together with the river San Juan, rightfully belonged to Spain, and afterwards to Nicaragua. Reference might be made to the report of Sir William Wise, the commander of the British ship-of-war, *Sophie*, who visited

the coast in 1820, and also to that of Mr. Orlando Roberts, who was carried as a prisoner up the San Juan in 1821. The latter describes the fort to which Captain Bonnycastle had referred, as then still mounting twelve large pieces of cannon, and containing accommodations for one hundred men. The two chapters of Crowe's Central America, entitled "British Encroachments," might also be cited. Of these the author presents a striking history, from the time of the numerous and formidable but unsuccessful expedition of Great Britain against Spain, in 1780, for the purpose of wresting from that power the port and river of San Juan, until they were finally captured from Nicaragua, in 1848, and then first became a part of the Mosquito protectorate.

3. TERRITORY BETWEEN THE SIBUN AND THE SARSTOON.

The next portion of Central America which demands attention is the territory between the rivers Sibun and Sarstoon. Over this territory the British settlers from Belize have been encroaching for several years; but this, it was believed, without the authority or sanction of the British government. It now appears that Great Britain claims the territory, and declines to withdraw from its occupation, in obedience to the convention.

In regard to it the question need not be discussed, whether the convention embraces the entire isthmus, geographically known as Central America, or is confined to the five States which formally composed the republic of that name. In either sense, the country between the Sibun and the Sarstoon is included within Central America. This territory is a part of the province of Vera Pas, all of which constitutes an integral portion of the State of Guatemala. At the date of the treaty of 1786, and until the Spanish dominion terminated, the territory south of the Sibun was included within the ancient kingdom of Guatemala, of which, with the exception of Chiapas, the confederated republic was composed. This, as a geographical fact, it is presumed will not be denied.

The British statement contends that Mr. Clayton's declaration of the 4th July, 1850, not only embraces the settlement of Belize proper, under the treaty with Spain, but covers the territory south of it, between the Sibun and the Sarstoon.

The language employed by Mr. Clayton is: "The British settlement in Honduras." Now, while such a settlement exists under the treaty of 1786, to which this language is precisely applicable, it would be a most strained construction to extend its application

beyond the treaty limits and make it protect the encroachments of British settlers over a larger territory than that included within the settlement itself.

Besides, Mr. Clayton states, in a subsequent part of the same document, that the convention of 1850 "was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies."

Then, under this declaration itself, the territory in question being within "the just limits" of the State of Guatemala, is expressly embraced by the convention.

Lord Clarendon considers himself "more warranted" in concluding that Mr. Clayton's statement applies to this territory, "from the fact that the United States had, in 1847, sent a consul to the settlement, which consul had received his exequatur from the British government; a circumstance says his lordship, which constitutes a recognition, by the United States government, of the settlement of British Honduras under her majesty, as it then existed."

Now, it would be easy to prove that a consul is never sent to a whole settlement, or to an entire nation, but only to a single port, for the purpose of superintending the commerce at that port, and, therefore, that no inference could be drawn from the fact that the United States had sent a consul to the port of Belize, within the treaty limits, in favor of the claim of Great Britain to a country far beyond these limits; but this would not be sufficient for the occasion. Mr. Buchanan emphatically denies the proposition that the appointment of a consul to Belize was any, even the slightest, recognition of the right of Great Britain to this very port.

A consul is an officer appointed to reside in a foreign country for the purpose of facilitating, extending, and protecting the trade of his nation with that country. Such officers follow foreign trade, wherever it may go, and afford protection to it, no matter whether the ports to which they are sent be in the possession of the rightful owner or a usurper. The appointment of a consul recognizes nothing more than the *de facto* possession of the port by the power from which his exequatur is received. Such an appointment does not, in the slightest degree, interfere with the question of the right [*de jure*] of this power to be in possession. This has ever been, and this must ever be, the law and practice of modern commercial nations. If it

were otherwise, then, before the appointment of a consul, the government of a nation must carefully inquire whether the party in possession be the rightful owner of the port; and if they determine against its right, then their commerce with it must either cease altogether or remain without consular protection. This would be a novel doctrine to maintain in the present age of commercial progress.

The law and practice of nations have for a long period been clear on this point; because consuls are mere commercial and not political agents. At the present time, even the appointment of a public minister is wisely considered as a recognition of nothing more than the *de facto* possession of the power to which he is accredited.

The British statement claims the territory between the Sibun and the Sarstoon by right of conquest, and observes "that the treaty of 1786 was put an end to by a subsequent state of war" with Spain, and "that during that war the boundaries of the British settlement in question were enlarged," and that the subsequent treaty of peace not having revived the treaties of 1783 and 1786, Great Britain is entitled to retain this territory.

It may be observed that the statement does not mention at what period the boundaries of the British settlement were enlarged. If this took place, as it is believed it did, after the date of the treaty of alliance between Great Britain and Spain in 1809, which terminated the war, then this argument falls to the ground. If before 1809, Great Britain, when concluding this treaty, ought to have informed Spain that she intended to convert the encroachments of the settlers in Belize on Spanish territory into an absolute right. That she did not then intend to pursue such a course towards an ally in distress, is clear from her subsequent conduct.

In 1814 Great Britain revived all her pre-existing commercial treaties with Spain; and what is the privilege granted to her by the treaty of 1786, of cutting mahogany, logwood and other dye woods on Spanish territory, thus enabling her to extend British commerce in these articles, but a commercial privilege?

So far from the treaty of 1786 being "put an end to" by the war, its continued existence in 1817 and 1819 was recognized by acts of the British parliament; these declare, in so many words, that Belize was "not within the territory and dominion of his majesty," but was "merely a settlement for certain purposes, in the possession and under the protection of his majesty."

For the nature of this "settlement," and a knowledge of "these certain purposes," we can refer nowhere except to the treaties of 1783 and 1786.

In addition to these acts of parliament it is proper here to repeat, that, so late as 1826, Great Britain has, by her treaty with Mexico, acknowledged the continued existence and binding force of the treaty of 1786.

But no matter what may be the nature of the British claim to the country between the Sibun and the Sarstoon, the observation already made in reference to the Bay Islands and the Mosquito coast must be reiterated, that the great question does not turn upon the validity of this claim previous to the convention of 1850, but upon the facts that Great Britain has bound herself by this convention not to occupy any part of Central America, nor to exercise dominion over it; and that the territory in question is within Central America, even under the most limited construction of these words. In regard to Belize proper, confined within its legitimate boundaries, under the treaties of 1783 and 1786, and limited to the usufruct specified in these treaties, it is necessary to say but a few words. The government of the United States will not for the present insist upon the withdrawal of Great Britain from this settlement, provided all the other questions between the two governments concerning Central America can be amicably adjusted. It has been influenced to pursue this course partly by the declaration of Mr. Clayton on the 4th of July, 1850, but mainly in consequence of the extension of the license granted by Mexico to Great Britain under the treaty of 1826, which that republic has yet taken no steps to terminate.

It is, however, distinctly to be understood, that the government of the United States acknowledge no claim of Great Britain within Belize, except the temporary "liberty of making use of the wood of the different kinds, the fruits and other produce in their natural state," fully recognizing that the former "Spanish sovereignty over the country" now belongs either to Guatemala or Mexico.

In conclusion, the government of the United States most cordially and earnestly unite in the desire expressed by "her majesty's government, not only to maintain the convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate." Under these mutual feelings, it is deeply to be regretted

that the two governments entertain opinions so widely different in regard to its true effect and meaning.

JAMES BUCHANAN.

[An extract of the above remarks, viz., Beginning at the words, "In regard to Belize proper," and running to and inclusive of the words "in regard to its true effect and meaning" appears as Document 40, in Special Message of President, 29th July, 1882, p. 102.]

Messages and Documents.
1855-1856, Part 1.
P. 69.

25th July, 1854.

(Mr. Buchanan to Mr. Marcy.)

[No. 39.]

LEGATION OF THE UNITED STATES,
LONDON, July 25, 1854.

SIR: I have the honor to transmit to you a copy of my "remarks in reply to Lord Clarendon's statement of May 2, 1854," the original having been sent to his lordship on the 22d instant.

I regret their length, but I found it impossible, such were the number of topics introduced in the British statement, to render them shorter. I trust they may meet the approbation of the President and yourself.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY, &c., &c , &c.

33d Congress, 2d Session.
Senate Ex. Doc. No 1.
Part 2, pp. 1417-27.
In Vol. 2.

25th October, 1854.

(Report to Senate.)

Report of J. G. Strain on Isthmus of Darien.

(Omitted.)

33d Congress, 2d Session.
Senate Ex. Doc. No. 1.
In Vol. 1.

4th December, 1854.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

In relation to Central America, perplexing questions existed between the United States and Great Britain at the time of the cession of California. These as well as questions which subsequently arose concerning inter-oceanic communication across the Isthmus, were, as it was supposed, adjusted by the treaty of April 19, 1850; but unfortunately they have been re-opened by serious misunderstanding as to the import of some of its provisions; a re-adjustment of which is now under consideration. Our minister at London has made strenuous efforts to accomplish this desirable object but has not yet found it possible to bring the negotiations to a termination.

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FRANKLIN PIERCE.

WASHINGTON, December 4, 1854.

Messages and Documents.
1855—1856.
Part 1, P. 69.

16th February, 1855.

(Mr. Buchanan to Mr. Marcy.)

[*Extract.*]

[No. 61.]

LEGATION OF THE UNITED STATES,
LONDON, February 16, 1855.

SIR: Since the ministerial crisis all public business has been suspended in this country, except such as relates to the existing war with Russia. From a conversation which I casually had with Lord Aberdeen on the day before the vote against his ministry in the House of Commons, I was confirmed in the belief that the Central American questions would have been settled had he remained in power a few weeks longer.

* * * * *

Yours very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

Messages and Documents.
1855-1856.
Part I, Pp. 69-73.

6th August, 1855.

(Mr. Marcy to Mr. Buchanan.)

[No. 104.]

DEPARTMENT OF STATE,
WASHINGTON, August 6, 1855.

SIR: The President is anxious to have the questions which have been raised on the treaty between the United States and Great Britain of the 19th of April, 1850, settled, if possible, or, at least, brought to a distinct issue, before you retire from your mission. The negotiation cannot be committed to any one who so well understands the subject in all its bearings as you do, or who can so ably sustain and carry out the views of the United States.

The President has been unwilling to manifest impatience at the delay which has attended this negotiation while her majesty's government was engrossed by the war with Russia, but he deems it to be but reasonable that it should now be urged to a conclusion. It is important that the United States should know the positions Great Britain is determined to maintain relative to the Central American questions.

I need not express to you the surprise the President felt on learning the views of her majesty's government, as presented to you in Lord Clarendon's statement of the 2d of May, 1854, in regard to Ruatan and the other islands, constituting what may now be looked upon as the British colony of the Bay Islands. These views are considered by this government as not only contrary to the spirit, but directly at variance with the clear language of the convention of 1850.

After the very cogent argument contained in your able reply to that statement, the President is unwilling to believe that the positions, rather indicated than maintained, by Lord Clarendon, relative to Ruatan, will be adhered to. If a stipulation, so explicit in terms and so clearly applicable to the Bay Islands, is to be nullified by interpretation, every other provision in that instrument, so far as it imposes obligations upon Great Britain, may, in the same way, and with equal plausibility, be defeated.

Should Great Britain refuse to withdraw from Ruatan and the other islands on the coast of the State of Honduras, her determination, in that respect, could not but be regarded by the President as a non-compliance with the stipulations of the treaty of 1850. The

fact that these islands are a part of Central America is so unquestionable, and the stipulations of the convention are so directly applicable to them, that there seems to be no room for raising a question of interpretation.

After what was said to you by Lord Aberdeen, when at the head of the British government, it is to be hoped that the British pretension to hold Ruatan will be abandoned. If Great Britain still persists in holding these islands and in maintaining a colony there, her determination to that effect should be distinctly announced, so that this government may no longer be left in doubt as to her intentions. On this point you are instructed to ask of her majesty's government an explicit declaration.

The main inducement which this government had, as you have well observed, for entering into this treaty, was to prevent Great Britain from acquiring or exercising dominion in Central America; but this object is entirely defeated by the interpretation which the British government proposes to give to that instrument. While the United States are excluded from occupying, colonizing, or exercising any dominion over any part of Central America, it cannot be admitted that the same restriction is not imposed on Great Britain.

You are, therefore, directed to declare explicitly to her majesty's government, that the President, after a full consideration of what is alleged in Lord Clarendon's statement of the 2d of May, 1854, cannot entertain a doubt but that Great Britain is solemnly bound by the first article of the convention of 1850 not to occupy, or fortify or colonize, or assume or exercise any dominion over Ruatan, or any of the islands on the coast of the State of Honduras, known or described as the Bay Islands, and that he expects she will, in fulfilment of the stipulations of that treaty, abandon the possession she now holds of this part of Central America.

It would be superfluous to enlarge upon the views you have taken of the British protectorate over the Mosquito Indians. The groundlessness of the British pretensions to exercise control or dominion in Central American affairs, under the shadow of this protectorate, is so clearly demonstrated in your remarks, in reply to Lord Clarendon's statement, as to supercede further discussion on the subject. What effect these remarks have produced on the British government is not yet known. If they have received the consideration due to them, I am sure they will open the way to the peaceful adjustment of these embarrassing Central American questions.

It is not strange that Lord Clarendon should manifest some reluctance to have the foundation of the British protectorate over the Mosquitos explored ; but the rights claimed under it seem necessarily to have called for the examination which you have given to the subject. The result of that examination shows that the Mosquito kingdom, as a political State is, in any view of it, what Lord Palmerston acknowledged it to be—a mere fiction. Upon this admitted fiction, Great Britain now attempts to establish a substantial sovereign power over an extensive region in Central America, and when required by the United States to withdraw from the exercise of this power, in compliance with the stipulations of the convention of 1850, she endeavors to escape from her obligation to do so, by designating the dominion she exercises as a protectorate.

A protectorate necessarily implies the actual existence of a sovereign authority in the protected power ; but where there is, in fact, no such authority there can be no protectorate. The Mosquitos are a convenience to sustain British pretensions, but cannot be regarded as a sovereign State. Lord Palmerston, as was evinced by his remark to Mr. Rives, took this view of the political condition of the Mosquitos, and it is so obviously correct that the British government should not be surprised if the United States consider the subject in the same light.

It was the confident belief of the United States that this fiction of a Mosquito kingdom had been disposed of by the convention, but very much to their surprise it is now resorted to as the basis of a British dominion over an extensive region of Central America.

Admitting that the convention did not require the absolute renunciation of the Mosquito protectorate, it imposed, as is admitted, restrictions upon it. After the conclusion of that treaty it could not be used for the purpose of occupying, fortifying, or colonizing any part of Central America, or for the purpose of assuming or exercising dominion over the same.

Great Britain will not, I think, contend that it has been thus practically restricted since the ratification of the convention of 1850. There is no visible power, civil or military, in the Mosquito territory but that which is exercised by British subjects.

It is understood, and, indeed, asserted by the British government, that the protectorate is only used for the security of the rights of the Mosquito Indians, and that it is ready to abstain from further interference in that country whenever these rights can be in a proper manner guarantied to those Indians.

This is a question between the State of Nicaragua and those Indians, with which neither Great Britain nor the United States has any business to interfere except in friendly conference with Nicaragua.

Were this the only difficulty in carrying out the convention of 1850, as it is understood by the United States, I should entertain but little doubt that a satisfactory adjustment might be made of the Central American questions. I apprehend, however, that there will be more difficulty in inducing Great Britain to comply with the stipulations of the treaty by surrendering the territory encroached on by her subjects, between the Sibun and Sarstoon rivers. Her claim to hold possession of this part of Central America is as groundless as her pretensions to the Bay Islands.

It is difficult to conceive how the argument which you have submitted to her Majesty's government against this claim can be refuted. Great Britain cannot hold this territory without assuming or exercising dominion over a part of Central America, and this she has, in the most explicit manner, and in the strongest terms, covenanted not to do.

If she can succeed in her attempt to convert her license to cut logwood at the Belize, within the limits specified by her treaties with Spain of 1783 and 1786, into a sovereign right over that territory, and extend it so as to cover the region between the Sibun and Sarstoon, she will in that way entirely destroy the mutuality of the convention of 1850. It was the manifest intention of that instrument to exclude both of the contracting parties from holding, as well as from acquiring, territorial possessions in Central America. This intention was not clothed in ambiguous language, but was set forth in explicit terms. The United States have bound themselves not to acquire any such possessions, and Great Britain has stipulated not to assume or exercise any dominion over any part of Central America. This covenant is in nowise restricted by the explanatory note of the negotiators of the 4th of July, 1850.

The United States have a right to insist, and do insist, that the possession of the British government at the Belize shall be restricted to the limits and objects specified in the Spanish grant, and that all beyond those limits, falling within Central America, shall be relinquished.

You are instructed by the President to urge upon her Britannic majesty's government this view, and to claim a compliance with it as demanded by the stipulations of the convention of 1850.

The British government having been furnished with the views entertained by the President in regard to the obligations imposed by that convention, he expects it will be equally explicit on its part.

He does not doubt that the interest of the two countries, and the mutual desire to maintain existing amicable relations, will alike inspire each party with a conciliatory spirit, which will enable them to overcome all obstacles to a satisfactory adjustment.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Messages and Documents.
1855-1856, Part 1.
P. 73.

11th September, 1855.

(Mr. Buchanan to Mr. Marcy.)

[No. 89.]

LEGATION OF THE UNITED STATES,
LONDON, September 11, 1855.

SIR: I have the honor of transmitting to you the copy of a note which I this day addressed to Lord Clarendon on the Central American questions, in obedience to your instructions of the 6th ultimo, (No. 104.) I shall, of course, be anxious to learn whether it has received the President's approbation. It has been prepared with much care, my purpose having been to employ conciliatory language, so far as this might be done consistently with the President's instructions and the attainment of the objects which he had in view.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

[INCLOSURE NO. 1.]

(Mr. Buchanan to Lord Clarendon.)

LEGATION OF THE UNITED STATES,
LONDON, September 11, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has been instructed by the President again to call the attention of

the Earl of Clarendon, her majesty's principal secretary of state for foreign affairs, to the Central American questions pending between the two governments, under the convention of the 19th April, 1850.

The President has directed the undersigned, before retiring from his mission, to request from the British government a statement of the positions which it has determined to maintain in regard to the Bay Islands, the territory between the Sibun and the Sarstoon, as well as the Belize settlement, and to the Mosquito protectorate. The long delay in asking for this information has proceeded from the President's reluctance to manifest any impatience on this important subject whilst the attention of her majesty's government was engrossed by the war with Russia. But as more than a year has already elapsed since the termination of the discussion on these questions, and as the first session of a new Congress is rapidly approaching, the President does not feel that he would be justified in any longer delay.

Whilst it is far from the purpose of the undersigned to reopen the general discussion, he has been instructed to communicate to the Earl of Clarendon the conclusions at which the President has arrived upon the whole case.

After having carefully reviewed and reconsidered all the questions involved, with the light cast upon them by the Earl of Clarendon's statement of the 2d May, 1854, the President has expressed his unwillingness to believe that positions which he conceives to be rather indicated therein than finally adopted will be adhered to by the British government.

It was, in his opinion, the manifest intention of the convention to exclude both the contracting parties from holding or occupying, as well as from acquiring territorial possessions in Central America; and that this intention is not clothed in ambiguous language, but is set forth in explicit terms. The United States have bound themselves not to acquire any such possessions, and Great Britain has stipulated not to "assume or exercise any dominion over any part of Central America." Indeed, without such a reciprocal engagement, no mutuality whatever would have existed between the covenants of the contracting parties. Whilst the United States are excluded from occupying, colonizing, or exercising dominion over any part of Central America, it cannot be admitted that the same restriction, imposed in the very same language, is not equally applicable to Great Britain.

The President, therefore, confidently believes that Great Britain is bound by the first article of the convention of 1850 to withdraw from the possession she now holds of Ruatan and the other Central American islands on the coast of the State of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon, which has been encroached upon by her Majesty's subjects. He is also of opinion that the possession of the British government at the Belize should be restricted to the limits and objects specified in the treaties between Great Britain and Spain of 1783 and 1786.

In regard to the alleged protectorate over the so-called Mosquito kingdom,

the President has instructed the undersigned to say it was his confident belief that this protectorate had been finally disposed of by the convention. It is therefore much to his regret that he finds it is still continued as the basis of British dominion over an extensive region in Central America.

Even although Great Britain admits that the convention has imposed restrictions on the protectorate claimed, yet she still continues to exercise the same dominion over the Mosquito coast which she had done before its date. Indeed, at the present moment, no visible power, civil or military, exists in the Mosquito territory, except that which is exercised by British subjects, notwithstanding the convention expressly prohibits both parties from using any protection which either may afford to any State or people, for the purpose of occupying, fortifying, or colonizing the Mosquito coast, or any part of Central America, or for the purpose of assuming or exercising dominion over the same.

The declaration of the British government, that this protectorate is only employed for the security of the rights of the Mosquito Indians, and that it is ready to abstain from further interference in that country whenever these rights can, in a proper manner, be guaranteed to them, cannot be recognized by the United States as having any foundation in the convention. The President considers this to be a question between Nicaragua and the Indians within its territory, with which neither Great Britain nor the United States has any right to interfere, except in friendly conference with the authorities of that State.

Having thus distinctly presented to the British government the views of the government of the United States, in regard to the obligations imposed by the convention of 1850, the President feels assured that the Earl of Clarendon will, with characteristic frankness, be equally explicit in presenting the views of the British government in regard to these obligations.

In conclusion, the undersigned is instructed to state that the President does not doubt that the interest of the two countries, and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of the Central American questions.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

The Right Hon. the EARL OF CLARENDON, &c., &c., &c.

Messages and Documents.
1855-1856.
Part I, Pp. 75-79.

4th October, 1855.

(Mr. Buchanan to Mr. Marcy.)

[*Extract.*]

[No. 95.]

LEGATION OF THE UNITED STATES,

LONDON, October 4, 1855.

SIR: I have now the honor of transmitting to you a copy of the note of Lord Clarendon of the 28th, received by me on the 29th ultimo, in answer to my note of the 11th ultimo, on the Central American questions, as well as a copy of my reply dated on the 4th instant. Lord Clarendon's note is of such a character as might have been anticipated after the conversation between his lordship and myself on the 5th April last, reported in my dispatch (No. 66) of the 7th of that month. This note has been received so much sooner than I had anticipated, that if I were now in possession of my letter of recall I might return home on the 6th of October, as I had originally determined. It is impossible, however, that I should leave before this letter shall arrive, and it is certainly proper, under all the circumstances, that I should remain here no longer than may be necessary. If, therefore, it shall not have been forwarded before the arrival of this dispatch, I trust it may be sent by the next succeeding steamer.

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

[INCLOSURE NO. 1.]

FOREIGN OFFICE, September 28, 1855.

The undersigned, her majesty's principal secretary of state for foreign affairs, has the honor to acknowledge the receipt of the note which Mr. Buchanan, envoy extraordinary and minister plenipotentiary of the United States, addressed to him on the 11th instant, stating that he had been directed by the President, before retiring from his mission, to request from the British

government a statement of the positions which it has determined to maintain, in regard to the Bay Islands, to the territory between the Sibun and the Sarstoon, as well as the Belize settlement, and to the Mosquito protectorate, and setting forth the conclusions at which the President has arrived upon the whole case, namely, that it was the intention of the convention of the 19th of April, 1850, to exclude both the contracting parties from holding or occupying, as well as from acquiring territorial possessions in Central America, and that, consequently, Great Britain is bound to withdraw from the possession she now holds of Ruatan and other Central American islands on the coast of the state of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon; that the possession of the British government at Belize should be restricted to the limits and objects specified in the treaties between Great Britain and Spain of 1783 and 1786, and that the protectorate of the so-called Mosquito kingdom was finally disposed of by the convention.

The undersigned observes with satisfaction that, while thus expressing the opinion of the President of the United States on the several points thus enumerated, Mr. Buchanan announces that it is far from his purpose to reopen the general discussion upon them. Her majesty's government had, indeed, refrained from pursuing that discussion by replying to Mr. Buchanan's note of the 22d of July, 1854, because it appeared to them that the continuation of the correspondence was not likely to lead to any satisfactory conclusion; and, as her majesty's government are still of that opinion, the undersigned will confine his answer to Mr. Buchanan's present note within the same limits as those which Mr. Buchanan has prescribed to himself.

In answer, therefore, to the questions put by Mr. Buchanan, the undersigned has the honor to state to him, that her majesty's government adhere to the opinion which they have uniformly held, that the convention of April 19, 1850, was merely prospective in its operation, and did not in any way interfere with the state of things existing at the time of its conclusion. If it had been intended to do so, there can be no question but that, in conformity with what the undersigned believes to be the universal rule in regard to instruments of this nature, it would have contained, in specific terms, a renunciation, on the part of Great Britain, of the possessions and rights which, up to the conclusion of the convention, she had claimed to maintain, and such renunciation would not have been left as a mere matter of inference.

Neither can her Majesty's government subscribe to the position that, if the convention did not bear the meaning attached to it by the United States, it would have imposed upon the government of the United States a self-denying obligation which was not equally contracted by Great Britain, and that such a state of things could not have been in the intention of the contracting parties, because, if the convention did bear the meaning attached to it by the United

States, it would then have imposed upon Great Britain the obligation to renounce possessions and rights without any equivalent renunciation on the part of the United States. If the government of the United States can complain, in the one case, of the convention as presenting an unilateral character unfavorable to the United States, with much greater reason might the government of Great Britain, in the other case, if the assumption of the United States were to be acted upon in the construction of the convention, complain of it as prejudicial to England.

By looking to the object which the contracting parties had in view at the conclusion of the convention, namely, the security of the proposed ship canal, the British government consider that the design of the contracting parties was not to disturb any state of things then existing, but to guard against the future creation of a state of things which might by possibility interfere with the security of the proposed canal. That such was the true design of the convention is obvious from the provision in the sixth article, by which the contracting parties engage to invite every State to enter into stipulations with them similar to those contained in the convention. But if the position of the United States government were sound, and the convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the convention, and the governments of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated.

The British government share the conviction of the President of the United States that the interest of the two countries, and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of Central American questions. The British government see no reason why it should be otherwise. The British government neither have the wish to extend the limits of their possessions or the sphere of their influence in that quarter, nor would any British influence be promoted by doing so; but the British government are not prepared to contract either the one or the other, in pursuance of the interpretation of a convention, to which interpretation they cannot subscribe.

The undersigned requests Mr. Buchanan to accept the assurance of his highest consideration.

CLARENDON.

HON. JAMES BUCHANAN, &c., &c., &c.

[INCLOSURE NO. 2.]

LEGATION OF THE UNITED STATES,

OCTOBER 4, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor to acknowledge the receipt of the note of the Earl of Clarendon, her majesty's principal secretary of state for foreign affairs, dated on the 28th ultimo, in reply to the note of the undersigned of the 11th ultimo, in reference to the Central American questions between the two governments; and he will not fail to transmit a copy of the same, by the next steamer, to the Secretary of State at Washington.

Whilst far from intending to renew the general discussion of these questions, which has already been exhausted, the undersigned, in passing, would make a single observation in regard to the Earl of Clarendon's remark, that if the convention of the 19th April, 1850, had intended that Great Britain should withdraw from her possessions in Central America, "it would have contained, in specific terms, a renunciation" to that effect; "and such renunciation would not have been left as a mere matter of inference."

Now, it appears to the undersigned that an engagement by a party not "to occupy," "or exercise any dominion" over territory of which that party is in actual possession, at the date of the engagement, is equivalent in all respects to an agreement to withdraw from such territory. Under these circumstances, this is not "a mere matter of inference;" because the one proposition is necessarily and inseparably involved in the other, and they are merely alternative modes of expressing the same idea. In such a case, to withdraw is not to occupy—and not to occupy is necessarily to withdraw.

The undersigned needs no apology for briefly adverting to another argument of the Earl of Clarendon, because it has now for the first time been advanced. He states, that "if the position of the United States government were sound, and the convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the convention [under the 6th article,] and the government of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated."

Confining himself strictly to this single view of the subject, the undersigned would observe, that notwithstanding the general terms employed by the convention, an examination of its provisions, and especially of the sixth article itself, will prove it never intended that the Central American States should become joint parties to this treaty with the United States, Great Britain, and other governments, exterior to Central America. These States are the subjects on which the guarantees of the convention were to act, and the exclusion of all other powers from the occupancy of Central America, with a view to the

security not only of this canal, but all other canals or railroads across the isthmus, was one of the main objects to be accomplished by the treaty.

The Earl of Clarendon has himself indicated how absurd it would be for the Central American governments to become joint parties to this convention, according to the American construction. It would, however, be none the less absurd according to the British construction; because then no Central American State could accede to the treaty without confining itself forever within its existing boundaries, and agreeing not to add to its territory and extend its occupation under any possible circumstances which might arise in the future.

Besides, were it possible for Nicaragua, for example, to become a party to this joint convention, she would then take upon herself the extraordinary obligation to use her own influence with herself, under the 4th article, to induce herself to facilitate the construction of the canal, and to use her good offices to procure from herself "the establishment of two free ports, one at each end of the canal," both these ports being within her own limits. Consequences almost equally extraordinary would result from other portions of the convention.

But although the contracting parties could not have intended that the Central American States should become joint parties to the convention, yet they foresaw that it would be necessary to obtain stipulations from one or more of them, individually, providing for the security of the proposed canal, adapted to their anomalous condition and without interfering in any manner with their territorial possessions. Accordingly, in the sixth article, and in the clause next following that commented upon by the Earl of Clarendon, the convention provides as follows: "And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same," &c., &c.

In order to arrive at the conclusion that the Central American States are embraced in the general language of the first clause of the sixth article, it would be necessary to overlook this second clause entirely, or at least to regard it as unnecessary and without meaning.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

Right Hon. the EARL OF CLARENDON, &c., &c., &c.

34th Congress, 1st Session.
Senate Doc. No. 1.
In Vol. 1.

31st December, 1855.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

Whilst relations of amity continue to exist between the United States and all foreign powers, with some of these, grave questions are depending which may require the consideration of Congress.

Of such questions, the most important is that which has arisen out of the negotiations with Great Britain in reference to Central America.

By the convention concluded between the two governments on the 19th of April, 1850, both parties covenanted that "neither will ever occupy, or fortify, or colonize, or assume, or exercise, any dominion over Nicaragua, Costa Rica, the Mosquito Coast or any part of Central America."

It was the undoubted understanding of the United States in making this treaty that all the present States of the former Republic of Central America and the entire territory of each would thenceforth enjoy complete independence, and that both contracting parties engaged equally and to the same extent, for the present and for the future, that if either then had any claim of right in Central America such claim and all occupation or authority under it were unreservedly relinquished by the stipulations of the convention, and that no dominion was thereafter to be exercised or assumed in any part of Central America by Great Britain or the United States.

This government consented to restrictions in regard to a region of country wherein we had specific and peculiar interests only upon the conviction that the like restrictions were in the same sense obligatory on Great Britain. But for this understanding of the force and effect of the convention it would never have been concluded by us.

So clear was this understanding on the part of the United States that in correspondence contemporaneous with the ratification of the convention it was distinctly expressed that the mutual covenants of non-occupation were not intended to apply to the British establishment at the Belize. This qualification is to be ascribed to the fact that, in virtue of successive treaties with previous sovereigns of the country, Great Britain had obtained a concession of the right to cut maghogany or dye wood at Belize, but with positive exclusion

of all domain or sovereignty ; and thus it confirms the natural construction and understood import of the treaty as to all the rest of the region to which the stipulations applied.

It, however, became apparent at an early day after entering upon the discharge of my present functions that Great Britain still continued in the exercise or assertion of large authority in all that part of Central America commonly called the Mosquito Coast and covering the entire length of the State of Nicaragua and a part of Costa Rica ; that she regarded the Belize as her absolute domain and was gradually extending its limits at the expense of the State of Honduras, and that she had formally colonized a considerable insular group known as the Bay Islands, and belonging of right to that State.

All these acts or pretensions of Great Britain, being contrary to the rights of the States of Central America and to the manifest tenor of her stipulations with the United States as understood by this government, have been made the subject of negotiation through the American minister in London. I transmit herewith the instructions to him on the subject and the correspondence between him and the British secretary for foreign affairs, by which you will perceive that the two governments differ widely and irrevocably as to the construction of the convention and its effect on their respective relations to Central America.

Great Britain so construes the convention as to maintain unchanged all her previous pretensions over the Mosquito Coast and in different parts of Central America. These pretensions as to the Mosquito Coast are founded on the assumption of political relations between Great Britain and the remnant of a tribe of Indians on that coast, entered into at a time when the whole country was a colonial possession of Spain. It cannot be successfully controverted that by the public law of Europe and America no possible act of such Indians or their predecessors could confer on Great Britain any political rights.

Great Britain does not allege the assent of Spain as the origin of her claims on the Mosquito Coast. She has, on the contrary, by repeated and successive treaties renounced and relinquished all pretensions of her own and recognized the full and sovereign rights of Spain in the most unequivocal terms.

Yet these pretensions, so without solid foundation in the beginning, and thus repeatedly abjured, were at a recent period revived by Great Britain against the Central American States, the legiti-

mate successors to all the ancient jurisdiction of Spain in that region. They were first applied only to a defined part of the coast of Nicaragua, afterwards to the whole of the Atlantic coast, and, lastly, to a part of the coast of Costa Rica, and they are now reasserted to this extent notwithstanding engagements to the United States.

On the eastern coast of Nicaragua and Costa Rica the interference of Great Britain, though extended at one time in the form of military occupation of the port of San Juan del Norte, then in the peaceful possession of the appropriate authorities of the Central American States, is now presented by her as the rightful exercise of a protectorship over the Mosquito tribe of Indians.

But the establishment at the Belize, now reaching far beyond its treaty limits into the State of Honduras, and that of the Bay Islands, appertaining of right to the same State, are as distinctly colonial governments as those of Jamaica or Canada and, therefore, contrary to the very letter, as well as the spirit of the convention with the United States, as it was at the time of the ratification and now is understood by this government.

The interpretation which the British Government thus, in assertion and act, persists in ascribing to the convention, entirely changes its character. While it holds us to all our obligations, it in a great measure releases Great Britain from those which constitute the consideration of this government for entering into the convention. It is impossible, in my judgment, for the United States to acquiesce in such a construction of the respective relations of the two governments to Central America.

To a renewed call by this government upon Great Britain to abide by and carry into effect the stipulations of the convention according to its obvious import by withdrawing from the possession or colonization of portions of the Central American States of Honduras, Nicaragua and Costa Rica, the British government has at length replied, affirming that the operation of the treaty is prospective only and did not require Great Britain to abandon or contract any possession held by her in Central America at the date of its conclusion.

This reply substitutes a partial issue in the place of the general one, presented by the United States. The British government passes over the question of the rights of Great Britain, real or supposed, in Central America, and assumes that she had such rights at the date of the treaty and that those rights comprehended the protectorship of the Mosquito Indians, the extended jurisdiction and

limits of the Belize, and the colony of the Bay Islands, and there-upon proceeds by implication to infer that if the stipulation of the treaty be merely future in effect, Great Britain may still continue to hold the contested portions of Central America. The United States cannot admit either the inference or the premises. We steadily deny that at the date of the treaty Great Britain had any possessions there other than the limited and peculiar establishment at the Belize and maintain that if she had any they were surrendered by the convention.

This government, recognizing the obligations of the treaty, has, of course, desired to see it executed in good faith by both parties, and in the discussion, therefore, has not looked to rights which we might assert independently of the treaty in consideration of our geographical position and of other circumstances which create for us relations to the Central American States different from those of any government of Europe.

The British government, in its last communication, although well knowing the views of the United States, still declares that it sees no reason why a conciliatory spirit may not enable the two governments to overcome all obstacles to a satisfactory adjustment of the subject.

Assured of the correctness of the construction of the treaty constantly adhered to by this government and resolved to insist on the rights of the United States, yet actuated also by the same desire which is avowed by the British government, to remove all causes of serious misunderstanding between two nations associated by so many ties of interest and kindred, it has appeared to me proper not to consider an amicable solution of the controversy hopeless.

There is, however, reason to apprehend that with Great Britain in the actual occupation of the disputed territories, and the treaty, therefore, practically null so far as regards our rights, this international difficulty cannot long remain undetermined without involving in serious danger the friendly relations which it is the interest as well as the duty of both countries to cherish and preserve. It will afford me sincere gratification if future efforts shall result in the success anticipated heretofore with more confidence than the aspect of the case permits me now to entertain.

FRANKLIN PIERCE.

WASHINGTON, December 31, 1855.

34th Congress, 1st Session.
Senate Journal.
P. 55.

10th January, 1856.

(Resolution of Senate.)

Mr. Clayton submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the President be requested, if it be compatible with the public interest, to communicate to the Senate a copy of the letter of Lord John Russell to Mr. Crampton, dated January 19, 1853, in which the British government declares that they "intend to adhere strictly to the treaty of Washington of the 19th of April, 1850 [Clayton-Bulwer Treaty] and not to assume any sovereignty, direct or indirect, in Central America."

34th Congress, 1st Session.
Senate Ex. Doc. 3.
Vol. 6, p 1.

11th January, 1856.

(Special Message of the President of the United States.)

To the Senate of the United States :

I transmit to the Senate a report from the Secretary of State, with the accompanying document, in answer to their resolution of yesterday.

FRANKLIN PIERCE.

WASHINGTON, January 11, 1856.

DEPARTMENT OF STATE,
WASHINGTON, January 11, 1856.

The Secretary of State, to whom was referred the resolution of the Senate of yesterday, requesting the President, if compatible with the public interest, to communicate to that body "a copy of the letter of Lord John Russell to Mr. Crampton, dated January 19, 1853, in which the British government declares that they intend to adhere strictly to the treaty of Washington of April 19, 1850, and not to assume any sovereignty, direct or indirect, in Central America," has the honor to lay before the President the document called for by the resolution.

Respectfully submitted,

W. L. MARCY.

To the PRESIDENT OF THE UNITED STATES.

DOCUMENT ANNEXED.

1. Lord John Russell to Mr. Crampton, 19th January, 1853.. 830

34th Congress, 1st Session.
Senate Journal.
P. 57.

17th January, 1856.

(Resolution of Senate.)

Mr. Clayton submitted the following resolution, which was considered by unanimous consent and agreed to.

Resolved, That the President be requested, if it be compatible with the public interest, to communicate to the Senate copies of any correspondence which took place between Daniel Webster, Secretary of State, and the British Minister, and the minister from Costa Rica, in respect to a *projet* which was submitted to Nicaragua, Costa Rica, and the Mosquito Indians; and a copy of such *projet* with the instructions given to Mr. Walsh, the special agent deputed by the United States to present that *projet* to the States of Nicaragua and Costa Rica; as also of such other correspondence as may have passed between him and the said Secretary of State on the subject; as also copies of the correspondence with Mr. Kerr, chargé d'affaires of the United States in Nicaragua, in reference thereto, together with any correspondence with the government of Nicaragua or its minister, in respect to the same *projet*; and also copies of any letters, not heretofore communicated, which may have been addressed to this government by the minister of Nicaragua or the minister of Great Britain, in reference to the construction and purport of the convention between the United States and Great Britain, signed April 19, 1850, and proclaimed July 4, 1850 [Clayton-Bulwer Treaty], and of the replies made to them, if any.

34th Congress, 1st Session.
Senate Ex. Doc. No. 25.
In Vol. 10.

14th February, 1856.

(Special Message of the President of the United States.)

To the Senate of the United States:

I transmit a report from the Secretary of State in answer to the resolution of the Senate of the 17th ultimo, requesting transcripts

of certain correspondence and other papers touching the republics of Nicaragua and Costa Rica, the Mosquito Indians, and the convention between the United States and Great Britain of April 19, 1850.

FRANKLIN PIERCE.

WASHINGTON, February 14, 1856.

DEPARTMENT OF STATE,
WASHINGTON, February 14, 1856.

The Secretary of State, to whom was referred the resolution of the Senate of the 17th ultimo, requesting the President, if compatible with the public interest, "to communicate to the Senate copies of any correspondence which took place between Daniel Webster, Secretary of State, and the British minister and the minister from Costa Rica, in respect to a *projet* which was submitted to Nicaragua, Costa Rica, and the Mosquito Indians, and a copy of such *projet* with the instructions given to Mr. Walsh, the special agent, deputed by the United States to present that *projet* to the states of Nicaragua and Costa Rica, as also of such other correspondence as may have passed between him and the said Secretary of State on the subject; as also copies of the correspondence with Mr. Kerr, chargé d'affaires of the United States in Nicaragua in reference thereto, together with any correspondence with the government of Nicaragua or its minister, in respect to the same *projet*; and also copies of any letters not heretofore communicated, which may have been addressed to this government by the minister of Nicaragua or the minister of Great Britain, in reference to the construction and purport of the convention between the United States and Great Britain, signed April 19, 1850, and proclaimed July 5, 1850, and of the replies made to them, if any, has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted.

W. L. MARCY.

To the PRESIDENT.

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47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

18th February, 1856.

**(Decree of the President of Nicaragua annulling the grant to the American
Atlantic and Pacific Ship Canal Company.)**

Whereas the Republic of Nicaragua, on the 22d day of September, 1849 (one thousand eight hundred and forty-nine), granted to the American Atlantic and Pacific Canal Company certain rights and privileges, were subsequently modified by decree of the 11 day of April, 1850 (one thousand eight hundred and fifty), and whereas, in consideration of said rights and privileges, said company agreed to construct a ship canal across the territory of said republic from the port of San Juan de Nicaragua to the port of Realejo, Gulf of Fonseca, Tamarinda, San Juan del Sud, or any of the points on the Pacific Ocean which the engineers of the company might decide upon, or in case that the construction and completion of said canal or any point of it should become impossible, by any unforeseen event or insurmountable obstacle of nature, to construct a railroad or rail and carriage road and water communication between the two oceans ; and

Whereas the said American Atlantic and Pacific Ship-Canal Company have not constructed the said canal or commenced the same, but, on the contrary, has abandoned the undertaking and declared it impracticable, and have also failed to construct a railroad or rail and carriage road, as they agreed to do ; and

Whereas the said American Atlantic and Pacific Ship-Canal Company was bound by the terms of said charter to pay the Repub-

lic of Nicaragua ten thousand dollars annually, and ten per cent. on the net profits of any route the company might establish between the two oceans during the time allotted for the completion of the canal and in furtherance thereof ; and

Whereas the said American Atlantic and Pacific Canal Company have failed to pay annually said ten thousand dollars, together with the said ten per cent. net profits, falsely and fraudulently alleging that no profits were made and commission due ; and

Whereas, by the said charter, it was stipulated that, for the purpose of settling all matters in dispute between the state and the company, commissioners should be appointed by the state on the one part and the company on the other ; and

Whereas, on the 12th day of September, 1855 (one thousand eight hundred and fifty-five), the Republic of Nicaragua notified the said company to appoint commissioners under the charter, and the said company expressly refused the same ; and

Whereas, by decree of the 9th day of March, 1850 (one thousand eight hundred and fifty), the said company was made a body politic and corporate, with perpetual succession, by the name and description of " The American Atlantic and Pacific Ship-Canal Company " ; and

Whereas, on the 14th day of August, 1851 (one thousand eight hundred and fifty-one), the Republic of Nicaragua, with the sole object of facilitating the maritime canal, and in accordance with the desires expressed by the company of said canal to divide and separate from the contract of 22d September, 1849 (one thousand eight hundred and forty-nine), the part therein relating to the navigation by steam of the waters of Nicaragua, did constitute a new company, designated by the name of " Accessory Transit Company," and consisting of the same persons comprising the American Atlantic and Pacific Ship-Canal Company, and subject to the same obligations ; Now, therefore,

The supreme provisional Government of Nicaragua, in virtue of the faculties,

DECREES :

1. The grant to the American Atlantic and Pacific Canal Company, of date 22d September, 1849 (one thousand eight hundred and forty-nine), and the modifications thereof, made 11th day of April, 1850 (one thousand eight hundred and fifty), and all the privileges therein contained, are *revoked* and *annulled* ; the acts of incorporation

of said company, of date 9th day of March, 1850 (one thousand eight hundred and fifty), and of the "Accessory Transit Company," of date 14 day of August, 1851 (one thousand eight hundred and fifty-one), *are annulled*, and the said American Atlantic and Pacific Ship-Canal Company and Accessory Transit Company *are dissolved and abolished*, except for the purposes hereinafter mentioned.

2. Señor Don Cleto Mayorga, Señor Don Eduardo I. C. Kewen, and Señor Don George F. Alden (any two of whom may act) are hereby appointed a board of commissioners, with full powers to *examine, liquidate and ascertain* the amount due by the said American Atlantic and Pacific Canal Company and Accessory Transit Company to the state, with full powers to send for persons and papers, and to enforce respect and obedience to all their orders and decrees.

3. The said board shall proceed at once to discharge these duties, and for this purpose shall notify the agent of the companies residing in Nicaragua to appear before them forthwith, to give all evidence that may be required of them, and with the privilege to defend the interest of their principals.

4. The said companies shall be considered still in existence for the purpose of conducting this examination, and for the purpose of being held collectively responsible for such sum as may be ascertained to be due to the state, but for no other.

5. For the purpose of securing the payment of such amount the said board find due, they are hereby commanded to cause all the property of said companies to be seized forthwith and held by responsible persons, subject to the order of said board.

6. That the transit of passengers across this isthmus may suffer no interruption the board are authorized to deliver to such responsible persons as may make application all the said property so seized upon their executing a bond in a sum one-fourth greater than its appraised value, and with the conditions that the same shall be forthcoming when called for by the said board, and that the undertakers in the bond shall continue to transport the passengers who may arrive on the side of the Atlantic & Pacific Oceans, and the expense of transporting said passengers shall be charged against the said companies.

7. Before allowing the said property to be bonded the board shall cause the same to be fairly approved by three competent persons appointed for the purpose.

8. The board shall proceed summarily and with dispatch, and

on determining the amount due from the companies to the state shall report their proceedings immediately to the government.

9. The compensation of the board of commissioners, as well as of the board of appraisers, by them appointed, will be hereafter determined.

10. Let this be communicated to the proper authorities.

Given at Granada the 18th day of February, 1856.

PATRICIO RIVAS.

[*The above decree appears as Document 41, in Special Message of President, 29th July, 1882, pp. 103-104.*]

53d Congress, 2d Session.
House Mis. Doc. Vol. 37.
Messages of the Presidents.
In Vol. V., p. 364.

17th March, 1856.

(Special Message of the President of the U. S.)

WASHINGTON, March 17, 1856.

To the House of Representatives :

In answer to the resolution of the House of Representatives of the 27th ultimo, on the subject of correspondence between this Government and that of Great Britain touching the Clayton and Bulwer convention, I transmit a report from the Secretary of State, to whom the resolution was referred.

FRANKLIN PIERCE.

To the President of the United States :

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 27th ultimo, requesting the President to communicate to that house "so much of the correspondence between the government of the United States and that of Great Britain touching the Clayton and Bulwer convention, not heretofore communicated as he shall deem not incompatible with the public interest" has the honor to report to the President, that as the correspondence called for by the resolution has been communicated to and printed for the use of the Senate and for public information, it is presumed that the object of the call has been fully

answered and that duplicate copies will not be desired by the House of Representatives.

Respectfully submitted,

W. L. MARCY.

DEPARTMENT OF STATE,
Washington, March 17, 1856.

34th Congress, 1st Session.
Senate Ex. Doc. No. 68.
In Vol. 13.

15th May, 1856.

(Special Message of the President of the United States.)

To the Senate and House of Representatives :

I transmit herewith reports of the Secretary of State, the Secretary of the Navy and the Attorney-General, in reply to a resolution of the Senate of the 24th of March last, and also to a resolution of the House of Representatives of the 8th of May instant, both having reference to the routes of transit between the Atlantic and Pacific oceans through the republics of New Granada and Nicaragua, and to the conditions of affairs in Central America.

These documents relate to questions of the highest importance and interest to the people of the United States.

The narrow isthmus which connects the continents of North and South America, by the facilities it affords for easy transit between the Atlantic and Pacific oceans, rendered the countries of Central America an object of special consideration to all maritime nations, which has been greatly augmented in modern times by the operation of changes in commercial relations, especially those produced by the general use of steam as a motive power by land and sea. To us, on account of its geographical position and of our political interest as an American State of primary magnitude, that isthmus is of peculiar importance, just as the isthmus of Suez is, for corresponding reasons, to the maritime powers of Europe. But, above all, the importance to the United States in securing free transit across the American isthmus has rendered it of paramount interest to us since the settlement of the Territories of Oregon and Washington and the accession of California to the Union.

Impelled by these considerations, the United States took steps at an early day to assure suitable means of commercial transit, by canal, railway, or otherwise, across this isthmus.

We concluded, in the first place, a treaty of peace, amity, navigation, and commerce with the republic of New Granada, among the conditions of which was a stipulation, on the part of New Granada, guarantying to the United States the right of way or transit across that part of the isthmus which lies in the territory of New Granada, in consideration of which the United States guaranteed in respect of the same territory the rights of sovereignty and property of New Granada.

The effect of this treaty was to afford to the people of the United States facilities for at once opening a common road from Chagres to Panama, and for at length constructing a railway in the same direction, to connect regularly with steamships, for the transportation of mails, specie and passengers, to and fro between the Atlantic and Pacific States and Territories of the United States.

The United States also endeavored, but unsuccessfully, to obtain from the Mexican republic the cession of the right of way at the northern extremity of the isthmus by Tehuantepec, and that line of communication continues to be an object of solicitude to the people of this republic.

In the meantime, intervening between the republic of New Granada and the Mexican republic, lie the States of Guatemala, Salvador, Honduras, Nicaragua and Costa Rica, the severed members of the former republic of Central America. Here, in the territory of the Central American States, is the narrowest part of the isthmus, and hither, of course, public attention has been directed as the most inviting field for enterprises of interoceanic communication between the opposite shores of America, and more especially to the territory of the State of Nicaragua and Honduras.

Paramount to that of any European States as was the interest of the United States in the security and freedom of projected lines of travel across the isthmus by the way of Nicaragua and Honduras, still we did not yield in this respect to any suggestions of territorial aggrandizement, or even of exclusive advantage either of communication or of commerce. Opportunities had not been wanting to the United States to procure such advantages by peaceful means and with full and free assent of those who alone had any legitimate authority in the matter. We disregarded those opportunities from considerations alike of domestic and foreign policy; just as, even to the present day, we have persevered in a system of justice and respect for the rights and interests of others as well as our own, in regard to each and all of the States of Central America.

stained from doing it, in obedience to considerations of right not less than of policy ; and that while the courageous and self-reliant spirit of our people prompts them to hardy enterprises, and they occasionally yield to the temptation of taking part in troubles of countries near at hand where they know how potential their influence, moral and material, must be, the American government has uniformly and steadily resisted all attempts of individuals in the United States to undertake armed aggression against friendly Spanish-American republics.

While the present incumbent of the Executive office has been in discharge of its duties he has never failed to exert all the authority in him vested to repress such enterprises, because they are in violation of the law of the land, which the constitution requires him to execute faithfully ; because they are contrary to the policy of the government, and because to permit them would be a departure from good faith towards those American republics in amity with us, which are entitled to, and will never cease to enjoy, in their calamities, the cordial sympathy, and in their prosperity the efficient good-will of the government and of the people of the United States.

To say that our laws in this respect are sometimes violated, or successfully evaded, is only to say what is true of all laws in all countries, but not more so in the United States than in any one whatever of the countries of Europe. Suffice it to repeat that the laws of the United States, prohibiting all foreign military enlistments or expeditions within our territory, have been executed with impartial good faith, and, so far as the nature of things permit, as well in repression of private persons as of the official agents of other governments, both of Europe and America.

Among the Central American republics to which modern events have imparted most prominence is that of Nicaragua, by reason of its particular position on the isthmus. Citizens of the United States have established in its territory a regular inter-oceanic transit route, second only in utility and value to the one previously established in the territory of New Granada. The condition of Nicaragua would, it is believed, have been much more prosperous than it has been but for the occupation of its only Atlantic port by a foreign power, and of the disturbing authority set up, and sustained by the same power in a portion of its territory, by means of which its domestic sovereignty was impaired, its public land was withheld from settlement, and it was deprived of all the maritime revenue which it would otherwise collect on imported merchandise at San Juan del Norte.

In these circumstances of the political debility of the republic of Nicaragua, and when its inhabitants were exhausted by long-continued civil war between parties, neither of them strong enough to overcome the other or permanently maintain internal tranquillity, one of the contending factions of the republic invited the assistance and co-operation of a small body of citizens of the United States from the State of California, whose presence, as it appears, put an end at once to civil war and restored apparent order throughout the territory of Nicaragua, with a new administration, having at its head a distinguished individual, by birth a citizen of the republic, D. Patricio Rivas, as its provisional president.

It is the established policy of the United States to recognize all governments without question of their source, or organization, or of the means by which the governing persons attain their power, provided there be a government *de facto* accepted by the people of the country, and with reserve only of time as to the recognition of revolutionary governments arising out of the subdivision of parent States with which we are in relations of amity. We do not go behind the fact of a foreign government's exercising actual power to investigate questions of legitimacy; we do not inquire into the causes which may have led to a change of government. To us it is indifferent whether a successful revolution has been aided by foreign intervention or not; whether insurrection has overthrown existing governments and another has been established in its place, according to pre-existing forms, or in a manner adopted for the occasion by those whom we may find in the actual possession of power. All these matters we leave to the people and public authorities of the particular country to determine; and their determination, whether it be by positive action or by ascertained acquiescence, is to us a sufficient warranty of the legitimacy of the new government.

During the sixty-seven years which have elapsed since the establishment of the existing government of the United States, in all which time this Union has maintained undisturbed domestic tranquillity, we have had occasion to recognize governments *de facto*, founded either by domestic revolution or by military invasion from many of the governments of Europe.

It is more imperatively necessary to apply this rule to the Spanish-American republics, in consideration of the frequent and not seldom anomalous changes of organization or administration which they undergo, and the revolutionary nature of most of these changes, of which the recent series of revolutions in the Mexican republic is

an example, where five successive revolutionary governments have made their appearance in the course of a few months, and been recognized successively each as the political power of that country by the United States.

When, therefore, some time since, a new minister from the republic of Nicaragua presented himself, bearing the commission of President Rivas, he must and would have been received as such, unless he was found, on inquiry, subject to personal exception, but for the absence of satisfactory information upon the question whether President Rivas was in fact the head of an established government of the republic of Nicaragua, doubt as to which arose not only from the circumstance of his avowed association with armed emigrates recently from the United States, but that the proposed minister himself was of that class of persons, and not otherwise or previously a citizen of Nicaragua.

Another minister from the republic of Nicaragua has now presented himself, and has been received as such, satisfactory evidence appearing that he represents the government *de facto*, and, so far as such exists, the government *de jure* of that republic.

That reception, while in accordance with the established policy of the United States, was likewise called for by the most imperative special exigencies, which require that this government shall enter at once into diplomatic relations with that of Nicaragua. In the first place, a difference has occurred between the government of President Rivas and the Nicaragua Transit Company, which involves the necessity of inquiry into rights of citizens of the United States, who allege that they have been aggrieved by the acts of the former, and claim protection and redress at the hands of their government. In the second place, the inter-oceanic communication by the way of Nicaragua is effectually interrupted, and the persons and property of inoffending private citizens of the United States in that country require the attention of their government. Neither of these objects can receive due consideration without resumption of diplomatic intercourse with the government of Nicaragua.

Further than this, the documents communicated show that, while the inter-oceanic transit by the way of Nicaragua is cut off, disturbances at Panama have occurred to obstruct, temporarily at least, that by the way of New Granada, involving the sacrifice of the lives and property of citizens of the United States. A special commissioner has been dispatched to Panama to investigate the facts of this occurrence, with a view particularly to the redress of parties

aggrieved. But measures of another class will be demanded for the future security of inter-oceanic communications by this as by the other routes of the isthmus.

It would be difficult to suggest a single object of interest, external or internal, more important to the United States than the maintenance of free communication, by land and sea, between the Atlantic and Pacific States and Territories of the Union. It is a material element of the national integrity and sovereignty.

I have adopted such precautionary measures and have taken such action for the purpose of affording security to the several transit routes of Central America, and to the persons and property of the citizens of the United States connected with or using the same, as are within my constitutional power and as existing circumstances have seemed to demand. Should these measures prove inadequate to the object, that fact will be communicated to Congress, with such recommendations as the exigency of the case may indicate.

FRANKLIN PIERCE.

WASHINGTON, May 15, 1856.

LIST OF PAPERS ANNEXED.

1. Report of the Attorney-General, 14th May, 1856.
2. Paper accompanying same (176 pages).

NOTE.—*This report has reference to Colonel Walker's filibustering expedition to Nicaragua and to the attack on the Panama Railway by certain insurgent parties at Panama, and none of the letters or papers attached thereto refer to the question of sovereignty over the Isthmus of Panama, or of any attempt of Great Britain to exercise authority over the Central American States. The remarks of President Pierce in his special message above on the question, while of interest, are merely "obiter dicta," without foundation or fact.*

34th Congress, 1st Session.
Senate Ex. Doc. No. 82.
In Vol. 14, Part 1.

24th May, 1856.

(Mr. Marcy to Mr. Dallas.)

[No. 13.]

DEPARTMENT OF STATE,
WASHINGTON, May 24, 1856.

SIR: I am directed by the President to address you, on the subject of the difference of opinion between the British government

and that of the United States, regarding the construction and effect of the convention of April 19, 1850, and the subject of Central America generally, and to state to you the views which the President entertains of that question, as it now stands, in order that you may communicate the same to the Earl of Clarendon, her Britannic Majesty's principal secretary of state for foreign affairs.

You are aware, that there has been no direct communication between the two governments, on the main subject, since the letter of your predecessor, Mr. Buchanan, to the Earl of Clarendon, dated September 11, 1855, his lordship's reply of the 28th of the same September, and a brief rejoinder by Mr. Buchanan on the 4th of the following October.

In his letter of the 11th of September, Mr. Buchanan briefly recapitulating the conclusions at which the President had arrived on the whole case, and which had been fully explained to the British government in his previous dispatches, reminded Lord Clarendon that more than a year had already elapsed without any new step being taken by the United States in the discussion, from unwillingness to press the subject while the attention of her Majesty's government was engrossed by the war with Russia; and he proceeded to say that the President had directed him, before retiring from his mission, as he was then about to do, to request from the British government a statement of the positions which it had determined to maintain, more especially in regard to the Bay Islands, the Belize settlement, and the Mosquito protectorate.

To this communication the Earl of Clarendon replied, stating, as the final opinion of her Majesty's government, that "the convention of April 19, 1850, was merely prospective in its operation, and did not in any way interfere with the state of things existing at the time of its conclusion." He repeats this idea afterwards in other forms of expression, saying, in one place, that "the British government consider, that the design of the contracting parties was not to disturb any state of things then existing;" and in another place, that, while the British government have no wish "to extend the limits of their possessions or the sphere of their influence" in Central America, they "are not prepared to contract either the one or the other, in pursuance of the interpretation of a convention, to which interpretation they cannot subscribe."

Here, with exception of the brief note from Mr. Buchanan to Lord Clarendon of the 4th of October, 1855, and that upon a

single point only, the correspondence, touching the general question, has remained suspended.

It will thus be perceived, that, in his closing dispatch, the Earl of Clarendon desists from all further discussion of the main objects of controversy, which had previously occupied the attention of the two governments, and rests the case upon the single position, then at length definitively assumed and expressly announced, of a particular hypothesis touching the construction of the convention.

The President could not but receive this announcement with equal surprise and regret. He would, indeed have been constrained to regard it as an abrupt and complete termination of all correspondence on the subject between the two governments, and as imposing on this government the painful duty of solemnly declaring that the convention had now ceased to be obligatory on the United States, but for the following expressions in the Earl of Clarendon's dispatch ;

"The British government share the conviction of the President of the United States that the interests of the two countries and their mutual desire to maintain existing friendly relations will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of Central American questions. The British government see no reason why it should be otherwise."

This language on the part of her Majesty's principal secretary for foreign affairs did have the effect of preventing the President from dismissing all hope of an amicable adjustment of the serious misunderstanding which had grown up between the two governments. He would have been better satisfied if, in expressing the conviction that all obstacles to a satisfactory adjustment of the controversy might, with conciliatory spirit on both sides, be overcome, his lordship had been pleased to indicate the means, which in his judgment, were calculated to produce so desirable a consummation. For want of this the President has been left to conjecture the precise idea of her Majesty's government. He cannot be certain that his conjecture concerning it is well founded ; but he is induced, by certain collateral incidents which have occurred, to infer that it was the arbitration by a third power of the difference between the two governments in relation to Central America.

It appears by the letter of Mr. Buchanan to this department of February 8, 1856, that on a recent occasion Lord Clarendon had

stated in the House of Lords that he had offered to refer the whole question to the arbitration of any third power, and that the offer had been renewed, in consequence of which statement Mr. Buchanan, not being aware that any such offer had been formally made by the British government, had an interview with the Earl of Clarendon for the purpose of explanation. In that interview, Lord Clarendon stated that the original offer of which he had spoken in the House of Lords referred to expressions he had used in conversation with Mr. Buchanan, at an early stage of the discussion on the subject of Central America, and that what he had said of a repetition of the offer was in allusion to a dispatch which he had addressed to Mr. Crampton, the British minister at Washington, and which Mr. Crampton had communicated to this department, and he even proceeded to recount the answer which, on that occasion, it was alleged Mr. Crampton had received from me.

In relation to this important matter, as it has since been fully manifested, there was misconception on both sides. In the first place, although the note to Mr. Crampton had been written so far back as the 10th of November, 1855, and in it Mr. Crampton had been expressly "instructed" to communicate it to this department, he had neglected to do so, and it was not until a late hour in the evening of February 27, 1856, and in consequence of discussions in the Senate of the United States on the subject, that Mr. Crampton executed his instructions in this respect, and made communication of Lord Clarendon's note of the previous November.

In the second place it had not been understood, either by Mr. Buchanan or by his government, that the suggestions of arbitration which Lord Clarendon had made in conversation with Mr. Buchanan were intended by the former as a formal proposition to that effect on the part of her Majesty's government. If it had been so understood the proposition would have received at once the respectful consideration of the President.

It would be superfluous now to dwell on the regret which the President entertains that a proposition of this nature, which her Majesty's government intended as a final one, was not presented at the commencement, in such a shape as to have attracted to, and fixed upon it, the attention of this government.

The President has never ceased to be sincerely solicitous to preserve unimpaired the friendly relations of the two countries, and in that spirit, passing over all which there is of apparent informality in the offer of the British government, and assuming the late com-

munication by Mr. Crampton of Lord Clarendon's note of the 10th of November as a definite proposition, he instructs me to make the present response to that proposition.

At the very threshold is the question, what it is which shall be submitted to arbitration. Lord Clarendon, in his letter to Mr. Crampton of the 10th of November, seems to assume that the difference between the two countries is merely of the *interpretation* of the convention of April 19, 1850; but that is not so understood by this government.

If, indeed, it should be determined in any way that the American construction of that treaty is correct, which is, that whatever may have been the state of things previous to its date, yet after that, neither the United States nor Great Britain is to hold any possessions in Central America; that, when the two governments agreed that "neither will ever occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, the stipulation comprehends, as to the acts enumerated, prohibition of their continuance as well as their initiation, without which there could be no effective neutralization of the American isthmus; if, I say, such were the agreed or settled interpretation of the treaty, then, indeed, such determination would conclude all existing difference, and settle it in accordance with the views entertained by the United States.

But, on the other hand, it is not easy to see how the adverse construction, if it were adopted by an arbiter, could terminate the difference. Lord Clarendon conceives that the treaty "was merely prospective in its operation." So it undoubtedly was in one sense—that is, its engagements only took effect at the time of its execution, and did but apply to all future time.

But when he goes on to infer that the treaty "did not in any way interfere with the state of things existing at the time of its conclusion," he not only assumes a consequence which does not flow from the premises, but he also assumes a state of facts which is controverted by this government, and the determination of which cannot derive the least aid from the interpretation which he claims for the convention.

The Earl of Clarendon here assumes, without distinctly asserting it, that, at the date of the treaty, Great Britain had "possessions" in Central America. The existence of such possessions, or, as he otherwise expresses it, the assumed fact of there being "portions of territory occupied" by Great Britain

in Central America, would appear to be what he more than once speaks of, as "the state of things existing at the time of its conclusion." But this government does not understand that, at the date of the treaty, Great Britain had any possessions or occupied any territory in Central America, unless the British establishment at the Belize, with its dependencies, as the same are defined by her treaties with Spain, are to be considered as British possessions or territory in Central America. That is the only possible construction of the declarations exchanged between the then Secretary of State, Mr. Clayton, and the British minister, Sir Henry Bulwer, at the time of exchanging the ratification of the convention.

Independently of that cogent consideration, this government supposes that, as a matter of mere fact, "the state of things existing" in this respect at the time of the conclusion of the convention was a thing of indisputable notoriety. I will not do her Majesty's government the injustice of presuming that when the Earl of Clarendon speaks of "possessions" of Great Britain in that quarter, or of "portions of territory occupied by it," he intends to be understood as meaning anything but *rightful* possessions and *rightful* occupation, that is, possessions and occupation based upon the principles and conformed to the public law which govern the international relations of the Christian States of Europe and America.

Had Great Britain at that time any such possessions or occupation in Central America? If so, it must have consisted either in her relation to the Mosquito Indians, or to the Belize, or to the Bay Islands.

First, as to the Mosquito coast, it is not understood that Great Britain now lays claim to any "possessions" or any "territory" there. All she is supposed to claim is the right to "*protect*" the Mosquito Indians. It cannot be alleged by her that those Indians constitute, or are competent to constitute, an independent State, admissible as such into the family of sovereign powers. Nor is it pretended by Great Britain that in the name or on behalf of those Indians she herself can, without contravention of the treaty, assume or exercise political sovereignty in any part of the Mosquito coast. Her Majesty's government considers itself under obligations of honor to protect the persons of those Indians, nothing more, and declares that it is ready and desirous to be relieved of that duty in any manner which shall honorably assure the future condition of those

Indians. Without entering here into discussion of the question whether the convictions of duty thus entertained by the British government are well or ill-founded, it seems sufficient to say that there is nothing in that branch of the subject which merits the solemnity of an arbitration by some third power, or which ought to be regarded as incapable of being settled at any moment by direct intercourse between the respective governments of Great Britain and the United States.

Nor is it apprehended that her Majesty's government is disposed to claim possession, either in her own name directly, or in that of the Mosquito protectorate, of the port of San Juan de Nicaragua. It cannot but be admitted that that port was an old possession of Spain; her right to which was as indisputable as to Vera Cruz or Panama; that she had a port of entry and a fort, at or near that place, so long as she retained the sovereignty of Central America; and that then her rights of sovereignty there, and of territorial possession, passed to the republic of Central America. It is true that, at a subsequent period, and shortly before the date of the treaty now in question, a British force landed at San Juan, expelled the authorities of the State of Nicaragua which then held possession of it, and retained it for awhile, as against that State, in the name of the Mosquito Indians. It is true Great Britain afterwards relinquished the place to the so called people of Greytown, but the original taking of it was her act. That is, she, in the words of Lord Clarendon, placed "a people under her protection in possession" of San Juan. A protectorship so exercised, and in the name of such persons as the Mosquito Indians, would, it is plain, amount to practical sovereignty. If admissible, under the name of protectorship, for one of the contracting parties to the convention, it would be equally so for the other; and the United States might be impelled, for controlling reasons, to undertake a counter protectorship of Indians or other persons in Central America. It is not supposed that Great Britain desires to enter into any such line of policy of conflicting protectorships in that quarter, or contends for any construction of the treaty leading to such consequences, and, of course, no difficulty between the two governments is apprehended on this point, any more than in regard to the general relation of the treaty to the Mosquito Indians.

Second, as to the Belize, it being conceded that, in pursuance of the explanations interchanged between Sir Henry Bulwer and Mr. Clayton, Great Britain is not precluded by any stipulation with the

United States from continuing to exercise, at that establishment, all the rights which she acquired from Spain ; it would seem, also, that there is nothing in that part of the subject which it becomes the two governments to say to the world that they cannot settle by themselves. For, although it is common in English books of geography and others to give to the Belize the appellation of British Honduras, still it is too well known to admit of dispute, that the Belize is not, and never was, any part of Honduras, and her Majesty's government will not, it is assumed as a matter of course, found on a mere name any pretensions of extended territory in that quarter, to the prejudice of the territorial integrity of the republic of Honduras.

Finally, there remains the question of the Bay Islands, as to which there is more of controversy, at least in appearance.

It is due to perfect frankness to say, that the act of her Majesty's government establishing so late as the year 1852, and in apparent contradiction to the express letter of the convention of 1850, a colony at the Bay Islands, has left a disagreeable impression on the minds of the government and the people of the United States.

Possessing, as Great Britain does, numerous colonial establishments in all parts of the world, many of them in the West Indies, it has not been readily seen what inducements of interest she can have had to establish a new colony under the peculiar circumstances of the time in the insignificant territory of the Bay Islands.

Nor, on looking back beyond the fact of her Majesty's warrant establishing the colony of the Bay Islands, and considering the state of things existing in that quarter at the date of the convention of 1850, does this government well see on what ground it can be maintained that Great Britain, at that time, had possession of the Bay Islands, which could be deemed rightful, either as respects her engagements with the United States, or the territorial sovereignty of the republic of Honduras.

I do not understand the Earl of Clarendon positively to assert, that the Bay Islands are dependencies of the British settlement at the Belize. He indicates, to be sure, an inclination on the part of the British government, to maintain such a claim, but he concedes, at the same time, that it is a "debatable question."

The President does not permit himself for a moment to entertain the idea that the Earl of Clarendon will insist upon any claim of right in Central America, incompatible with the most sacred respect for all stipulations of treaty, as understood by her Majesty's govern-

ment. Of course he looks to see what are the rightful sources of British title to the Bay Islands suggested by the Earl of Clarendon. He finds them in the "statement" from the Foreign Office of May 2, 1854, as communicated to Mr. Buchanan, and by him transmitted to this department.

Her Majesty's government admits, in that paper, that Ruatan was claimed and militarily occupied by the former republic of Central America, as successor to the rights of Spain; but asserts, at the same time, adverse British claim manifested by acts of authority, military and civil, and by actual possession.

Occasional acts of military authority by the captains of British ships of war, or of civil authority by the superintendent of the Belize, are insufficient, it is obvious, to determine a claim of title as against the counter claim of the republic of Central America or the State of Honduras. No relinquishment of title by the latter is alleged, except in certain declarations reported to have been made by the Central American commandant of Truxillo, who, whatever he may have said, could have no power to cede away the territory of Honduras.

The occupation of Ruatan by British subjects, as its origin and character are described in the "statement," presents none of the conditions of rightful possession. Its language on that point is: "Ruatan has been of late years, without any instigation on the part of her Majesty's government, spontaneously occupied by British subjects" It is not presumable that the spontaneous occupation of Ruatan by British subjects, without instigation on the part of her Majesty's government, that is, an act of mere invasion by unauthorized private persons, will be perseveringly insisted upon by the Earl of Clarendon as the foundation of claim by Great Britain to the sovereignty or even the rightful possession of the Bay Islands.

It cannot have escaped the attention of her Majesty's government that the political condition of the Belize, as fixed by treaties, is not itself one of territorial sovereignty, and therefore Great Britain never could have acquired in right of the Belize, and as assumed dependencies thereof, the territorial sovereignty of the Bay Islands.

In a word, this government believes that the Bay Islands belong to the State of Honduras, and that, therefore, the occupation of them, and still more their colonization by Great Britain, are contrary to the tenor of her treaty with the United States as being the occupation and colonization of a part of Central America.

But the British government thinks differently, and upon the question whether the Bay islands are subject to occupation and colonization by Great Britain, notwithstanding her treaty with the United States, the two governments are at issue.

Upon this retrospect of the several points of difference between the two governments, the President is not able to perceive that any useful result would ensue to either, from calling on a third power to say whether the convention is or is not prospective in its operation, in the sense of that idea as expressed by her Majesty's government ; for, if that question should by any possibility happen to be resolved in favor of Great Britain, all the substantial points of difference between the two countries would remain untouched, as being wholly independent of that question of construction. The dispute would still exist as to what rightful possessions, at the date of the convention, Great Britain actually had in Central America.

And if it is now contended by the British government that, in the name of the Mosquito Indians, Great Britain may take, with military force, and hold, San Juan de Nicaragua, or any other point in Central America, such a pretension would be so totally irreconcilable with all idea of the independence or neutrality of the isthmus, as to render the convention worse than nugatory to the United States. Instead of submitting to arbitration a pretension involving such consequences, or in any other way consenting to restore effect to the treaty with such possible construction, it would, in the judgment of the President, be his duty to propose its annulment, so as to release the United States from obligations not attended by any benefits, and which obligations, thus unattended, the United States did not intentionally incur ; they having entered into the treaty only upon the supposition that absolute reciprocity of restriction was incurred by Great Britain.

I repeat, if the treaty could, by any possibility whatever, have the construction of leaving Great Britain in the possession or military control of the Atlantic coast of Central America, in the name of the Mosquito Indians, and with power to colonize insular positions commanding it, on the ground of their having been "spontaneously occupied by British subjects," while the United States are restrained from all such rights of control or acquisition, that, in the estimation of the President, would be to deprive the treaty of moral force, both because it would thus cease to have reciprocal effect, and because the United States did not intentionally enter into any such engagement ; and if such were a possible construction of

the letter of the treaty, it would be incumbent on the President to consider whether it would not then become the duty of the United States to seek for the most honorable means of being discharged from such obligations, and render themselves perfectly free to re-establish their proper relation as an American power, to the transit routes of the American isthmus and the general independence of America.

In fine, the President cannot consent to any act, which implies the existence of possible doubt on this point. The convention of 1850, construed in the sense above supposed, would not be the treaty into which the United States entered. Nor can he do anything which could be taken to admit, either directly or impliedly, that there is question in his mind, relative to the true construction of that convention. And, he feels bound to take care that, in entertaining the present proposition of arbitration, he shall not be understood as actuated by the slightest feeling of distrust regarding the treaty rights of the United States.

But the President is not prepared to say that some of the questions of fact, concerning which the two governments differ, may not be conveniently determined by arbitration or by some analogous method.

Of this class of objects of inquiry is the question, what are the rightful limits of the establishment at the Belize on the side of the State of Honduras; the question whether the Bay Islands do or not belong to that republic; and the question what extent of country is embraced in the term Mosquito coast, or is in the actual occupancy of the Mosquito Indians, considered as Indians, and with such territorial rights only as that description of persons are entitled to claim, according to the established public law of Great Britain, of the United States, and of Spain, or of the independent States which have succeeded Spain in America; remembering that no power exists, on the part of Great Britain and the United States, to dispose of the sovereign rights of Nicaragua, or any other State of Central America.

All these questions of political geography regard, in the first instance, the sovereignty and jurisdiction of the independent States of Central America. Great Britain and the United States have no pretension thus to intervene, except for the purpose of defining their own mutual obligations, arising out of the engagements they have contracted in order to assure, so far as they are concerned, the neutrality and the independence of the American isthmus. Regarded only as collateral considerations, affecting the construction of the

treaty between the United States and Great Britain, they are questions which, if not determinable by agreement of the two governments themselves, the President would not decline to refer to arbitration.

He is aware of many practical obstacles to the adjustment of any international difference of this nature by arbitration, of which difficulties both Great Britain and the United States had experience, in their attempt to settle, by such means, a previous controversy on the subject of the boundary between the United States and the British provinces in North America.

The President does not doubt that any one of the powers of Europe, which should consent to undertake the task of such an arbitration as is now proposed, would perform the duty with perfect impartiality; but to apply to any power to do this, would be to ask of it an act which, if granted by it, would add to its own domestic duties and labors the burden of settling complicated differences of other governments. He would greatly prefer that, in a controversy like the present, turning on points of political geography, the matter should be referred to some one or more of those eminent men of science who do honor to the intellect of Europe and America, and who, with previous consent of their respective governments, might well undertake the task of determining such a question, to the acceptance as well of her Majesty's government as of the United States.

You are instructed, therefore, to enter into communication with her Majesty's principal secretary for foreign affairs, in relation to Central America, in order to ascertain, in the first place, whether existing differences cannot be promptly terminated by direct negotiation, and if they cannot, then to discuss the conditions of arbitration of those points of difference, as to which alone this method of settlement seems requisite or applicable; it being assumed that the other points of difference would after that yield, as of course, to conference between the Earl of Clarendon and yourself, conducted in the spirit of cordiality and frankness, which belongs to your personal relations, and which is dictated by the true interests both of the United States and of Great Britain.

I am, sir, your obedient servant,

W. L. MARCY.

GEORGE M. DALLAS, Esq., &c., &c., &c.

[The above letter appears as Document 1, in *Special Message of President*, 29th May, 1856, pp. 1-10.]

34th Congress, 1st Session.
Senate Ex. Doc. No. 82.
In Vol. 14, p. 1.

29th May, 1856.

(Special Message of the President of the United States.)

To the Senate of the United States:

In further answer to the resolution of the Senate of the 17th of January last, requesting that a copy of any official correspondence not previously communicated touching the convention between the United States and Great Britain of the 19th of April, 1850, I transmit a copy of an instruction of the 24th instant, from the Secretary of State to the Minister of the United States at London.

FRANKLIN PIERCE.

WASHINGTON, May 29, 1856.

DOCUMENT ANNEXED.

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|---|----------|
| | See page |
| 1. Mr. Marcy to Mr. Dallas, 24th May, 1856----- | 995 |

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

27th August, 1856.

(Additional article to the treaty of friendship, commerce, and navigation between Great Britain and Honduras, signed at London, August 27, 1856.)

Inasmuch as a contract was entered into by the Government of Honduras, and a company entitled "The Honduras Interoceanic Railway Company," for the construction of a railway from the Atlantic to the Pacific Oceans through the territories of Honduras, which contract was ratified by the constitutional powers of the state, and proclaimed as a law on the 28th day of April, 1854; and inasmuch as by the terms of Article V, section 6, of the said contract, "the Government of Honduras, with a view to secure the route herein contemplated from all interruption and disturbance, from any cause and under any circumstances, engages to open negotiations with the various governments with which it may have relations, for their separate recognition of the perpetual neutrality, and for the protection of the aforesaid route:" Therefore, in order to carry out the obligation thus incurred,

1. The Government of Honduras agrees that the right of way or transit over such route or road, or any other that may be

constructed through its territories, from sea to sea, shall be at all times open and free to the Government and subjects of Great Britain, for all lawful purposes whatever. No tolls, duties, or charges of any kind shall be imposed by the Government of Honduras on the transit of property belonging to the Government of Great Britain, or on the public mails sent under the authority of the same, nor on the subjects of the British Crown. All lawful produce, manufactures, merchandise, or other property belonging to subjects of Great Britain, passing from one ocean to the other, in either direction, shall be subject to no import or export duties whatever, nor to any discriminating tolls or charges for conveyance or transit on any such route or road as aforesaid, and shall be secure and protected from all interruption and detention on the part of the state.

The Republic of Honduras further agrees that any other privilege or advantage, commercial or other, which is or may be granted to the subjects or citizens of any other country in regard to any such route or road as aforesaid, shall be also and at the same time extended to British subjects ; and, finally, as an evidence of its disposition to accord to the travel and commerce of the world all the advantages resulting from its position in regard to the two great oceans, the Republic of Honduras, of her own good will, engages to establish the ports at the extremities of the contemplated road as free ports for all the purposes of commerce and trade.

2. In consideration of these concessions, and in order to secure the construction and permanence of the route or road herein contemplated, and also to secure for the benefit of mankind the uninterrupted advantages of such communication from sea to sea, Her Britannic Majesty recognizes the rights of sovereignty and property of Honduras in and over the line of the said road, and for the same reason guarantees, positively and efficaciously, the entire neutrality of the same so long as Great Britain shall enjoy the privileges conceded to it in the preceding section of this article. And when the proposed road shall have been completed Her Britannic Majesty equally engages, in conjunction with the Republic of Honduras, to protect the same from interruption, seizure, or unjust confiscation from whatsoever quarter the attempt may proceed.

Nevertheless, Her Britannic Majesty, in according her protection to the said route or road, and guaranteeing its neutrality and security when completed, always understands that this protection and guarantee are granted conditionally, and may be withdrawn by

her if she should deem that the persons and company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit or intention of this article, either by making unfair discriminations in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving six months' notice to the Republic of Honduras.

The present additional article shall have the same force and validity as if it were inserted word for word in the treaty of friendship, commerce, and navigation signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time; and its stipulations shall, subject to the same condition of notice on the part of Her Britannic Majesty, provided for in the preceding paragraph of this article, be permanent between the contracting parties.

In witness whereof the respective plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done at London the 27th day of August, in the year of our Lord 1856.

[L. S.]

CLARENDON.

[L. S.]

VR. HERRAN.

[*The above article appears as Document 42, in Special Message of President, 29th July, 1882, pp. 105-106.*]

34th Congress, 3d Session.
Senate Ex. Doc. No. 5.
In Vol. 2.

2d December, 1856.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

"When my last Annual Message was transmitted to Congress, two subjects of controversy, one relating to the enlistment of soldiers in this country for foreign service and the other to Central America, threatened to disturb good understanding between the United States and Great Britain. Of the progress and termination

of the former question you were informed at the time ; and the other is now in the way of satisfactory adjustment.

The object of the convention between the United States and Great Britain of the 19th of April, 1850, was to secure, for the benefit of all nations, the neutrality and the common use of any transit-way or interoceanic communication, across the Isthmus of Panama, which might be opened within the limits of Central America. The pretension subsequently asserted by Great Britain, to dominion or control over territories in or near two of the routes, those of Nicaragua and Honduras, were deemed by the United States, not merely incompatible with the main object of the treaty, but opposed even to its express stipulations. Occasion of controversy on this point has been removed by an additional treaty, which our Minister at London has concluded and which will be immediately submitted to the Senate for its consideration.

Should the supposed supplemental arrangement be concurred in by all the parties to be affected by it, the objects contemplated by the original convention will have been fully attained.

* * * * *

Questions of the most serious nature are pending between the United States and the Republic of New Granada. The government of that republic undertook, a year since, to impose tonnage duties on foreign vessels in her ports, but the purpose was resisted by this government as being contrary to existing treaty stipulation with the United States and to rights conferred by charter upon the Panama Railroad Company, and was accordingly relinquished at that time, it being admitted that our vessels were entitled to be exempt from tonnage duty in the free ports of Panama and Aspinwall. But the purpose has been recently revived on the part of New Granada by the enactment of a law to subject vessels visiting her ports to the tonnage duty of forty cents per ton and although the law has not been put in force, yet the right to enforce it is still asserted and may, at any time, be acted on by the government of that republic.

The Congress of New Granada has also enacted a law, during the last year, which levies a tax of more than three dollars on every pound of mail matter transported across the Isthmus.

The sum thus required to be paid on the mails of the United States would be nearly two million dollars annually, in addition to the large sum payable by contract to the Panama Railroad Company.

If the only objection to this exaction were the exorbitancy of its amount it could not be submitted to by the United States.

The imposition of it, however, would obviously contravene our treaty with New Granada and infringe the contract of that republic with the Panama Railroad Company. The law providing for this tax was, by its terms, to take effect on the first of September last, but the local authorities on the isthmus have been induced to suspend its execution and to await further instructions on the subject from the government of the republic. I am not yet advised of the determination of that government. If a measure so extraordinary in its character and so clearly contrary to treaty stipulations and the contract rights of the Panama Railroad Company, composed mostly of American citizens, should be persisted in, it will be the duty of the United States to resist its execution.

I regret, exceedingly, that occasion exists to invite your attention to a subject of still graver import in our relations with the Republic of New Granada. On the fifteenth day of April last, a riotous assemblage of the inhabitants of Panama committed a violent and outrageous attack on the premises of the railroad company and the passengers and other persons in or near the same, involving the death of several citizens of the United States, the pillage of many others and the destruction of a large amount of property belonging to the railroad company. I caused full investigation of that event to be made and the result shows satisfactorily that complete responsibility for what occurred attaches to the government of New Granada. I have, therefore, demanded of that government that the perpetrators of the wrongs in question should be punished; that provision should be made for the families of citizens of the United States who were killed, with full indemnity for the property pillaged or destroyed.

The present condition of the Isthmus of Panama, in so far as regards the security of persons and property passing over it, requires serious consideration. Recent incidents tend to show that the local authorities cannot be relied on to maintain the public peace of Panama, and there is just ground for apprehension that a portion of the inhabitants are meditating further outrages, without adequate measures for the security and protection of persons or property having been taken either by the State of Panama or by the general government of New Granada.

Under the guarantees of treaty, citizens of the United States have by the outlay of several million dollars constructed a railroad

across the Isthmus, and it has become the main route between the Atlantic and Pacific possessions over which multitudes of our citizens and a vast amount of property are constantly passing—to the security—and protection of all which, and the continuance of the public advantages involved, it is impossible for the government of the United States to be indifferent. I have deemed the danger of the recurrence of scenes of lawless violence in this quarter so imminent as to make it my duty to station a part of our naval force in the harbors of Panama and Aspinwall, in order to protect the persons and property of the citizens of the United States in those ports and to insure to them safe passage across the Isthmus. And it would, in my judgment, be unwise to withdraw the naval force now in those ports until by the spontaneous action of the Republic of New Granada or otherwise, some adequate arrangement shall have been made for the protection and security of a line of interoceanic communication so important at this time not to the United States only, but to all other maritime States both of Europe and America."

FRANKLIN PIERCE.

WASHINGTON, December 2, 1856.

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

3d December, 1856.

(Mr. Marcy to Messrs. Morse and Bowlin.)

[No. 28.]

DEPARTMENT OF STATE,

WASHINGTON, December 3, 1856.

GENTLEMEN: You have been furnished by the President with a joint authority to conduct an important negotiation with New Granada.

It has been and still is the anxious desire of the President to maintain a cordial good understanding between the United States and the republic of New Granada. He is unwilling to believe that the government of that republic will persist in the attempt to impose high tonnage duties on American vessels visiting the Granadian ports, or to burden our mails crossing the Isthmus of Panama with a most exorbitant tax. The government of New Granada has bound itself by solemn treaty stipulations, and an explicit contract with the Panama Railroad Company, a corporation authorized by its laws and composed of American citizens, as we understand them, to abstain from both impositions.

It is presumed that an appeal to the good faith of the Granadian government is all that can be necessary to induce it to abandon these pretensions. It is not apprehended that you will have any difficulty in coming to a proper understanding upon these subjects. The archives of the legation will put you in possession of the views of your government thereon. The Panama outrage of the 15th April last, involving the destruction of several lives and the plunder of a large amount of property, does not seem to have received the attention or called forth the action which its serious importance demanded from the government of New Granada. Great pains have been taken by this government to acquire full information of the transaction in all its details, and the result discloses a scene shocking to the feelings of humanity. The evidence which has been collected, together with the Commissioner's report, is placed in your possession. The examination of them cannot, it is believed, leave any doubt that New Grenada is bound to make ample indemnity for the injuries sustained by our citizens in that unfortunate affair. Her subsequent action in regard to it has disappointed the just expectations of this government. No efficient measures have been taken to punish the guilty actors of that outrage, no attempt has been made to recover the property pillaged from the passengers. This indifference of the government in regard to the outrageous conduct of the population at Panama on that occasion emboldens the offenders and others like-minded to hope for impunity if engaged in similar lawless proceedings.

This course of conduct on the part of New Granada can only be accounted for upon the ground that New Granada has not the ability to bring to punishment the wrongdoers, and to afford proper protection in future to the property and persons on the Panama route. There are good reasons for believing that further outrages would have occurred on that route if the population had not been deterred by the presence of a considerable naval force in the harbors of Panama and Aspinwall. The lawless character and the insubordinate spirit of a large portion of these residents justify the most serious apprehensions of danger to the lives of the passengers and to property passing over the isthmus in case of the withdrawal of our vessels of war from those harbors. No measures of precaution were taken before the lamentable occurrence of the 15th of April, though there were well founded fears of serious disturbance; nor since that event have any been adopted by New Granada to discharge her duties of protection to the property and persons of our

citizens on that route. Assuming that the government of that republic has not the ability to maintain order and afford security, she is bound to agree to any fair arrangement to accomplish those objects.

You are herewith furnished with the *projet* of a convention for that purpose, and instructed to urge the acceptance of it upon that government.

So far as respects the establishment of municipalities at Panama and Aspinwall, to which most reluctance is apprehended, it is to be observed that this arrangement is, with all its essential features, similar to the one recommended by this government and that of Great Britain to be established at San Juan de Nicaragua, or Greytown.

It is also similar to that made between Great Britain and the Republic of Honduras in regard to the Bay Islands.

San Juan is situated in relation to the Nicaragua route as Aspinwall and Panama are in regard to the route which terminates at those two places, and the measures deemed appropriate for the safety of the former is equally required for the safety of the latter. Both of these precedents, which have the approval of Great Britain, and the latter the further approval of this government, may, with great force, be urged upon New Granada as inducements to the acceptance of a similar arrangement at Panama and Aspinwall. It is not designed, as you will perceive, to secure any exclusive advantage to the United States. To remove all objections of this sort, an article is proposed securing the common use of the Panama route to all foreign nations.

Should this government get the control of the road it would at once take measures to satisfy foreign powers that it would be kept open for their common use on fair terms, and they would be asked to become parties with the United States to a guaranty for the neutrality of that part of the isthmus. If the United States should pay, at they propose to do, a large sum of money to secure the safety of that route, they would naturally expect some equivalent therefor, which would probably be some special terms in relation to transportation of their mails, soldiers, sailors, and national property. The arrangement does not propose the full cession of the sovereign rights of New Granada over the territory included in the two municipalities, though it is to a considerable extent a restriction upon those rights. This arrangement, is not, it is believed, of an unusual character. In organizing the General Government of the United States, the several States reserved to themselves a large portion of their original sovereign rights.

The second article in the *projet* proposes a transfer of the reserved rights of New Granada in the charter to the railroad company. The amount of money which the United States proposed to give for this assignment will be more than equivalent to what will ever be paid by the company to New Granada. She ought to recollect that the obligation of the company to pay her for the right of transit is counterbalanced by her obligation to afford full protection to the route. To fulfill this obligation would probably cost her an expenditure quite equal to what she would receive from the company. By the proposed transfer to the United States she is entirely released from the duty of protecting the route or paying heavy damages in case of neglecting that duty. The United States have already had to assume this duty by keeping force at each end of the route to preserve order and prevent outrages similar in character and consequences to that of the 15th of April last. It cannot be expected that this Government should be satisfied with the bare assurance of future protection after what has happened, and New Granada is apparently without the means of restraining and controlling the population which occupies the Isthmus. She has not shown herself able to punish the well-known perpetrators of a most aggravated wrong, nor has she taken any effective measures to guard against the recurrence of such scenes. It must be evident to New Granada that things cannot remain as they are. You will be able to urge many cogent reasons for the proposed transfer, and it is hoped they will commend themselves to the approval of the Granadian government.

The Republic of New Granada is, as well as the United States, deeply interested in a safe and unobstructed passage over the Isthmus within her limits, and it is not anticipated that it will be reluctant to concur in the arrangement for that object suggested in the accompanying *projet*.

It is proposed in the sixth article of that *projet* to purchase or acquire control over the island of Tabogo, and some other small islands lying together in the harbor of Panama. It is not supposed that New Granada will seriously object to transfer the sovereignty or the control of them to the United States for the liberal consideration which you are authorized to offer.

It is important to the commerce of the United States, so long as the Panama route is the principal thoroughfare across the Isthmus, that ample provision should be made for the safety of vessels, which will, of course, in great numbers resort to the port of Panama.

It is not merely on account of security and refuge for our ships that such a place is needed, but for an establishment to make repairs, deposit goods, timber, coal, &c.

Several rival routes across the Isthmus are about to be opened, and the present one between Aspinwall and Panama will have to contend against a vigorous competition, without it can provide such conveniences and accommodations as the United States would afford if the *projet* substantially as it is furnished you could be adopted.

The future success of the Panama route and its advantages to the Republic of New Granada depend in great degree upon the inducements the citizens and Government of the United States may have to use it. The possession of the islands in question would do much to identify the interests of this country with the present or any other route across the Isthmus that may be established through New Granada.

Article 6, numbered *one*, in the *projet* proposes the cession of the sovereignty of the islands in the harbor of Panama, and also the island of Tabogo, distant about nine miles from the City of Panama.

Article 6, numbered *two*, does not in terms confer the sovereignty of the islands to the United States, but it gives full use and control over them to this Government, and I am disposed to believe that the latter is the form of cession which will be preferred by New Granada, and it would alike be acceptable to this Government. Should you find the New Granada is unwilling to concede to the United States the control over all these islands, or shall require a larger sum than you are authorized to offer, you will then endeavor to get the three islands in the harbor near Panama, namely, Flamenco, or Flamingo, Ilenao and Perico.

The adjustment of the sums to be paid by New Granada as damages for the affair of the 15th of April, and by the United States for, concessions, &c., will, I apprehend, be attended with much difficulty. The sum to be put in the blank of the fifth article must not be less than \$400,000. This will hardly cover the just claims of the sufferers. The aggregate amount of the demands of all descriptions of which this Government has now notice is now about \$600,000, but in many instances the damages may turn out to be excessive; if reduced to the lowest point the above named sum will hardly be sufficient to cover them. You will open the negotiation on this point with the suggestion of \$500,000, but may, if you find a larger sum cannot be obtained, come down to \$400,000.

I anticipate that for the proposed concessions and grants New Granada will expect a much larger sum than would be reasonable for her to demand or this Government could consent to pay. She probably overestimates the importance of the route over her territory, and particularly so in regard to its value to the United States. You will not fail to remind her that the route through Nicaragua is only temporarily embarrassed. It may soon be in successful operation, and has advantages over that of Panama in our intercourse with California and the Territories of Oregon and Washington. There are good reasons to believe that the route through Honduras and at Tehuantepec will be opened without much delay, and if this Congress does not, it is probable that the next will authorize the construction of a railroad through our own Territories to the Pacific. When either of these enterprises is executed the Panama route will lose its peculiar importance to the United States. This Government is, therefore, by this arrangement with New Granada procuring special advantages which may not last long, and it will not, therefore, be willing to pay a very exorbitant price for them.

The establishment of the municipalities is only to effect that which New Granada herself is under obligation of duty and treaty stipulation to perform. With the United States and our citizens who are interested in the railroad she is under the most explicit engagements to protect the route. If she had fulfilled these engagements, and were enabled to do so in future, the arrangements in regard to municipalities would be unnecessary, and she cannot, therefore, expect this Government would compensate her for making them. Without receiving scarcely any other advantages than those which this Government and our citizens have a right to receive from New Granada, this Government is taking upon itself burdens in order to render secure a route which New Granada is bound to protect and secure.

This security is not for the exclusive benefit of the United States, but is essentially so to New Granada herself, to all other nations, and to the railroad company which has her guarantee for that security.

For the possession of the islands, with the liberal authority over them which is contemplated by the convention, New Granada may reasonably expect compensation, yet it is by no means certain that she will not get by the arrangement in that respect more than she surrenders. The establishment of a naval depot on them by the

United States will be of great advantage to Panama, and, indeed, to the whole Republic of New Granada.

It is not necessary that I should go into an enumeration of the benefits of such an establishment to New Granada, for they will readily occur to you ; and in discussing that article in the convention you will not fail to impress them upon the Government of New Granada.

* * * * *

I am, &c.,

W. L. MARCY.

P. S. The map herewith sent has four islands on it. If Culebra be an island it must be included in the cession along with the three named in the *projet*.—W. L. MARCY.

Flamenco. Ilenao. Perico. Culebra.

— —

[INCLOSURE.]

PROJET.

(Convention between the United States of America and the Republic of New Granada for the adjustment of claims of citizens of the United States and for settling other differences between the parties.)

Whereas, by the thirty-fifth article of the treaty of peace, amity, navigation and commerce between the high contracting parties, concluded on the 12th of December, 1846, and ratified and exchanged on the 10th of June, 1848, a right of way or transit across the Isthmus of Panama within the territory of New Granada was granted to the United States and the citizens thereof, and certain rights and privileges were by that and other articles of the said treaty conferred on the Government and people of the United States in relation to the said right of way or transit;

And whereas, a certain company, denominated the Panama Railroad Company, mainly consisting of American citizens, have, with a view to the enjoyment of the rights and privileges so conferred, and pursuant to a charter granted to said company by the Republic of New Granada, constructed a railroad across the said Isthmus;

And whereas, it is for the mutual interest of the high contracting parties that this railroad, or any other interoceanic communication, which may be constructed within the limits of New Granada, should be secured from interruption and rendered safe for all persons and property passing or designed to pass over the same:

The high contracting parties do, for the purposes aforesaid, enter into the following stipulations: The President of the United States having, for this object, conferred full powers on James B. Bowlin, Esq., the minister resident of the said United States accredited to the Republic of New Granada, and Isaac E. Morse, Esq., a citizen of the said United States; and the President of New Granada having conferred similar powers upon _____ who have exchanged their said powers, which were found to be in due form.

ARTICLE I.

It is hereby agreed that New Granada shall constitute and declare—

First, that the port of Colon, otherwise called Aspinwall, and the port of Panama shall be free ports.

Second, that a district of country twenty English miles in width, bounded on the north and south by lines running from the Atlantic to the Pacific Oceans in the general direction equi-distant, or as nearly so as practicable, from the present line of the Panama Railroad, and including within the same the ports and cities of Aspinwall (Colon) and Panama shall be under the exclusive municipal jurisdiction of the inhabitants residing therein, New Granada still retaining the sovereignty over the same, to be exercised in any manner not inconsistent with the municipal jurisdiction and powers herein conceded to the residents of said district.

Third, that there shall be two municipalities established within the said district, one including Panama, and the other Colon, otherwise called Aspinwall, and the jurisdiction of each shall extend to a line drawn across said district at a distance midway between the two cities, or as nearly so as may be, and the inhabitants of each shall have the following rights and privileges, subject to the specified restrictions :

(A.) The right to govern themselves by means of their own municipal governments, to be administered by legislative, executive, and judicial officers, elected according to their own regulations. The right to vote at all elections shall be confined to freeholders and residents holding personal property to the amount of \$———.

(B.) Trial by jury in their own courts.

(C.) Perfect freedom of religious belief and worship, public and private.

(D.) Neither of the said municipal governments shall lay any duties on goods exported, nor any duties of tonnage of vessels, except such as may be necessary for the police of the ports and the maintenance of light-houses and beacons. Nothing herein contained shall impair or abridge the right of the municipal authority of the said government to levy taxes by the ordinary mode of taxation on the real and personal property of the inhabitants for the purpose of raising the necessary sums for defraying the expenses incident to the due administration of public affairs in all branches thereof.

(E.) Exemption from military service, except for the defence of either of the territories aforesaid.

Fourth, That each of the said municipalities shall enact suitable laws for the protection of the said Panama Railroad, or any other transit way across the Isthmus, for the security of the persons engaged upon the said road or way, and of the passengers and all property passing or intended to be transported over the said road, and shall cause the same to be duly executed.

Fifth, That whenever it shall be deemed necessary, and the Panama Railroad Company or its agent shall make application to the United States consul at Aspinwall or Panama for that purpose, such consul shall require of the mayor or chief magistrate of either city a police force for the protection of the Panama Railroad, or any other route of travel and transportation across the Isthmus, within the district aforesaid, or for the security of passengers or property passing or intended to be passed over the said road or route, or for the prevention or removal of any interruption of the said road or route, the said mayor or chief magistrate shall promptly furnish the same. In case the mayor or chief magistrate shall refuse or neglect to furnish such force at the request of the consul, the consul shall then have authority to make a direct call on the said police whose duty it shall be to obey such call; and in case such call is not complied with, the consul may organize and take charge of a temporary police force, and those composing it shall have the same protection for their acts as the regular police force are entitled to. The said police, while upon duty for that purpose, shall be subject to the orders of the United States consul requiring the same, and shall be kept in service so long as he shall determine such force to be necessary, and the whole force, or any person belonging to it, shall be discharged when the said consul shall request the same to be done; the civil authorities of the municipalities shall in no way embarrass or interfere with the action of the said police force while executing the orders of the said consul for the protection and security aforesaid, but shall lend their aid and assistance, if need be, to render the police force efficient for that purpose.

In order to defray the expenses of such police force when so called out, the United States consuls at Aspinwall (Colon) and Panama shall have authority to make an assessment, or to levy and collect taxes to the amount needed for that purpose, upon the railroad and upon passengers and property passing over the railroad or route; but no taxes, assessments, or duties shall be levied by the municipal authorities at Aspinwall (Colon) or Panama upon the railroad passengers or their property, or foreign mails, or any articles of merchandise passing over the said road. But this restriction is not to apply to any tax levied by direction of authority of the United States consuls to defray the expenses of the police which may be called out to protect the railroad, passengers and property transported over the same.

Sixth, That in case the route across the Isthmus of Panama within the district aforesaid shall be interrupted or shall be seriously threatened with obstruction or interruption by a force or a power which is likely to be too formidable to be put down by the police force which may be called out for that purpose, as herein provided, then the naval force of the United States which may be in or near either of the harbors at the extremities of said road or route may be used for the purpose of protecting, keeping open, and securing a free and safe passage over the said road, and the Government of the United States may also, if it should deem it necessary, send, for the same purpose, into the said district, or any part of it, or organize therein a military force; but whenever the exigency which may have lead to the employment of the naval or military force of the United States shall cease the same shall be withdrawn from the said territory.

The high contracting parties shall each appoint, within three months after the exchange of the ratifications of this convention, a commissioner, and the two commissioners shall immediately proceed to establish and mark the lines of the said district, and shall devise a mode for organizing the municipalities and make needful regulations for executing the same.

The high contracting parties hereby agree to respect the municipal governments hereby authorized to be established, and not to interfere in any way with the exercise of any of the powers granted or privileges conceded to the same, but will maintain with them friendly relations. Should either party at any time encroach upon the rights and privileges hereby granted and conceded, the other party may, at its discretion, and in any way it may deem proper, aid the said municipal governments, or either of them, in resisting such encroachments. Should any foreign power invade the territories of the said municipal governments, or interfere with their rights and privileges, either party to this convention may assist these governments in defense of their territory and municipal rights.

ARTICLE II.

And it is expressly agreed by the high contracting parties that nothing contained in the foregoing article shall give to, or confer upon, the people of the before-described district, or either of the municipalities therein authorized, any of the rights, powers or privileges reserved by the Republic of New Granada to itself by the charter granted to the Panama Railroad Company, or by any contract made with the said company; and that neither the said people or the municipalities shall have any control or jurisdiction over that road or any other interoceanic communication that may be made in or through that district.

And New Granada, for the considerations hereinafter mentioned, does hereby transfer and assign to the United States all the rights, title, interest and control which she has by charter, contract, or any other manner in, to, and over the said Panama Railroad, with full power and authority to receive for

their own use all sums of money or compensation stipulated to be paid by the said railroad company for the privileges or for the right of transit conferred by the charter granted to, or any contract made with, the said Panama Railroad Company. The United States are authorized and empowered to exact and enforce all the obligations which the said Panama Railroad Company has contracted with New Granada.

And it is hereby furthermore agreed and stipulated that the United States shall have and enjoy, in regard to the said railroad company, all the right and authority in and over the said road that New Granada has at any time had and enjoyed, and they shall have full power and authority to alter, modify or extend the charter of the said Panama Railroad Company, and to make any agreement with it in relation to the use of the said road, and they shall also have full and exclusive power to make any provision for the construction of any other railroad or passage way across the Isthmus of Panama within the district of country mentioned in the next preceding article on such terms as they may deem proper.

ARTICLE III.

If, unhappily, the high contracting parties should be engaged in war with each other, they do hereby mutually agree that the district of country before described shall be neutral territory; that neither party shall occupy the same for belligerent purposes (reserving the right of either to pass over it), nor shall either solicit or accept the services or aid of the said municipalities in the said war, but they shall remain neutral; neither shall in any way interrupt the transit within the district aforesaid, or obstruct or interfere with the ordinary operations of business on the said road, but the Governments and citizens of each of the high contracting parties respectively shall have the same use of the road during any such war, and the same security for their persons and property on the said road and within the district aforesaid as if the said parties were at peace.

ARTICLE IV.

It is hereby agreed that both parties shall have the free use of the Panama Railroad, or any other means of passage across the Isthmus, within the said district; but the said road or route shall be open to the common use of all nations which shall by treaty stipulations agree to regard and treat the district of country aforesaid at all times as neutral, and to respect the municipal authorities therein established, and all such nations shall have the use of said road or route to be established within the said district upon fair and reasonable terms; and they do further agree to invite foreign nations to join in the mutual guarantee of the neutrality of the said country, of the municipal governments aforesaid, and of the unobstructed use of the said Panama Railroad, or any other road or route which may be established across the Isthmus within the limits of the territory before designated.

ARTICLE V.

New Granada hereby stipulates and agrees to pay, in the manner hereinafter provided, to the United States the sum of \$, to be applied by the said United States to satisfy the claims of those of their citizens who suffered bodily injuries in the riot at Panama on the 15th of April last, to indemnify those citizens who had their property taken from them or destroyed in that riot, including damages to the railroad company and its property, and to make suitable provision for the families of the citizens of the United States who were killed on that occasion.

On the payment of the above sum of \$ for the purposes aforesaid by the Government of New Granada the United States releases it from all further claim or demand on that account.

ARTICLE VI. (No. 1.)

In order to protect and render secure the transportation of persons and property across the Isthmus of Panama, and for the full enjoyment of the advantages of that interoceanic communication to the Government and people of the United States, it is important that there should be a safe and commodious harbor for merchant vessels and national ships near the termination of communication on the Pacific. New Granada does for that purpose cede to the United States the Island of Taboga and the other islands in the harbor of Panama, to wit, Flamingo, Ilenao, Perico, Culebra, with all the rights and appurtenances thereunto belonging, in full sovereignty, to be owned and held forever by the United States in as full and ample a manner as they are or have been heretofore held by New Granada. It is understood that the cession now made of the said islands shall not impair the title of individuals to any part of the said islands, holding the same by *bona fide* grants from the Republic of New Granada, or as assignees of such grants. Without other restriction the United States may hereafter exercise full and exclusive jurisdiction of the said islands of Taboga, Flamingo, Ilenao, Perico, Culebra.

ARTICLE VI. (No. 2.)

It being important to the interests of both the high contracting parties that there should be a safe and commodious harbor and ship-yard or naval station at or near the termination of the route or transit-way across the Isthmus, on the Pacific, it is hereby agreed and stipulated that the islands of

, or near the harbor of Panama, including the island of Taboga, shall be included within the municipality of Panama in the same manner and to the same extent as is the city of Panama; and that in case the United States shall see fit to establish on the said islands, or any of them, a ship-yard and marine depot, or to occupy any place on the same as a naval station, they shall and may be under the authority of the United States. The said islands and the waters around them necessary for the purposes herein mentioned shall be placed

under the control and jurisdiction of the United States, and the United States shall have full authority and power to make such laws and regulations as may be deemed by them necessary or proper for the security of ships, merchandise, and persons on the said islands, and for the protection of the piers, wharves, workshops, buildings or any other structures that may be erected or constructed thereon. And they may also make such provision for maintaining order, peace and the good conduct of persons on the said islands, and to punish offenders against the rules and regulations which may be there established by the United States, or under their authority; and the authority and jurisdiction herein conferred on the United States over the said islands, and adjacent waters around the same shall be independent of any control by the municipal authority of the City or State of Panama, or the Republic of New Granada, without the express consent of the United States, and then under such restrictions as may be imposed by them.

The United States agree not to protect offenders against the laws or government of the said city, state or republic who may flee to the said islands, but, on proper demand made, to deliver them up or permit them to be taken therefrom. The property of every description on the said islands and waters about the same shall be exempt from all taxation, except that which may be imposed by the United States or by their consent, and the persons thereon shall be exempt from the civil and criminal jurisdiction of the City and State of Panama or the Republic of New Granada, unless the extent of the jurisdiction or authority of the municipality of the State of Panama, or of the Republic of New Granada, shall be such as the United States may from time to time designate.

Nothing herein contained shall interfere with the rights, title or interest of the owners of the real estate on the said islands.

ARTICLE VII.

For and in consideration of the grants and cessions contained in the foregoing articles it is hereby stipulated and agreed that the United States shall allow or pay to the Republic of New Granada the full sum of _____ dollars, currency of the said United States. Of the said sum of \$ _____, the United States shall retain the sum of \$ _____, specified in the fifth article of this convention, to be applied to the purposes in that article particularly designated, and the balance of \$ _____ shall be paid to the Republic of New Granada, in the City of New York, within sixty days after the exchange of the ratifications of this convention.

ARTICLE VIII.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the President of the Republic of New Granada, with the consent and approbation

of the congress of the same; and the ratifications shall be exchanged in the city of Washington within one year from the date of the signature thereof, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed and sealed these presents in the city of Bogota, on the day of in the year of our Lord one thousand eight hundred and fifty.

[*The above letter and inclosure appear as Document 1, Inclosure 1, in Special Message of President, 8th March, 1880, pp. 21-27.*]

53d Congress, 2d Session.
House Mis. Doc. Vol. 37.
Messages of Presidents.
Vol. 5, p. 418.

10th December, 1856.

(Special Message of the President of the United States.)

To the Senate of the United States:

I transmit to the Senate for its consideration with a view to ratification, a treaty for the settlement of the questions which have come into discussion between the United States and Great Britain relative to Central America, concluded and signed at London on the 17th day of October last between the United States and Great Britain.

FRANKLIN PIERCE.

WASHINGTON, December 10, 1856.

NOTE.—*No record can be found of the document transmitted in the above message, and as the treaty is neither mentioned nor recorded in volume of "Treaties and Conventions," it is probable that it failed to pass the Senate.*

34th Congress, 3d Session.
Senate Ex. Doc. No. 51.
In Vol. 8.

1856.

(Mémorial to Senate.)

Mémorial of Thomas J. Crain on ocean routes between Atlantic and Pacific Oceans. 1856.

(Omitted.)

53d Congress, 2d Session.
House Misc. Doc. Vol. 37.
Messages of the Presidents.
In Vol. V., p. 419.

12th January, 1857.

(Special Message of the President of the United States.)

WASHINGTON, January 12, 1857.

To the Senate of the United States:

I transmit a report from the Secretary of State, with accompanying papers* in answer to the resolution of the Senate of the 7th instant.

FRANKLIN PIERCE.

* NOTE IN RECORDS ABOVE CITED.—Correspondence and documents connected with the treaty concluded at London between the United States and Great Britain October 17, 1856, relative to Central America.

NOTE.—*No trace of these documents can be found, and as the treaty does not appear in the volume of "Treaties and Conventions," it is probable that the Senate either rejected it or did not act upon it at all.*

53d Congress, 2d Session.
House Misc. Doc. Vol. 37.
Messages of the Presidents.
In Vol. V., p. 422.

4th February, 1857.

(Special Message of the President of the United States.)

WASHINGTON, February 4, 1857.

To the Senate of the United States:

In answer to the resolutions of the Senate of yesterday, adopted in executive session, I transmit reports* from the Secretary of State to whom they were referred.

FRANKLIN PIERCE.

* Relating to the convention between Great Britain and Honduras respecting the island of Ruatan.

47th Congress, 1st Session.
Senate Ex. Doc. No. 194,
In Vol. 6.

12th March, 1857.

(Lord Napier to Lord Clarendon.)

[No. 5.] WASHINGTON, March 12, 1857. (Received March 29.)

MY LORD: I had this afternoon an interview with General Cass, when I requested that he would communicate to me the view taken in the Senate with reference to the Central American treaty, as far as was consistent with the secrecy of the pending deliberation.

The Secretary of State replied that the subject was at that very hour under discussion, and that opinions were divided in the following manner: Some held that the treaty should be sanctioned in its original form, others that it should be accepted with certain modifications, while a third party advocated its rejection, but proposed to temper this course by the adoption of certain resolutions embodying sentiments of a friendly disposition towards Great Britain and approving a settlement of the Central American question in conformity with the spirit of the treaty agreed to by your lordship and Mr. Dallas. General Cass appeared to anticipate that the last alternative would prevail. I remarked that I was not surprised by the result which he predicted, for impressions of a similar character had been imparted to me at New York; but I added that Her Majesty's Government would certainly learn with concern that all the efforts of Mr. Dallas, aided by your lordship's generous co-operation, had not succeeded in framing an arrangement acceptable to the Senate; such an issue had not been anticipated by the United States minister, and your lordship's expectations of the success of the treaty had been confirmed by the intelligence derived from Mr. Dallas that he (General Cass) had given the measure his support in the first instance.

The Secretary of State explained that at an early period a general outline of the projected arrangement had reached him, and had certainly obtained his warm approval, but that when he came to know the details more accurately, he recognized in them principles of foreign intervention repugnant to the policy of the United States. The treaty engaged the government of the United States to combine with that of Great Britain in urging a certain course of conduct on a foreign state. This could not be allowed; it was not consistent with the common practice of his country. The object, indeed, was good, and he hoped it might be attained in another shape. It might be prosecuted by a direct and distinct negotiation between

Great Britain and Nicaragua, in which Her Majesty's government would, of necessity, have the good office of the President. General Cass then passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he had regretted the vote he had given in its favor. He did not, however, pretend that the British Government should now unconditionally abandon the Mosquitos with whom they had relations of an ancient date; it was just as consistent with the practice of the United States that those Indians should be secured in the separate possession of lands, the sale of which should be prohibited, and in the enjoyment of rights and franchises, though in a condition of dependency and protection. The British Government had already removed one impediment to the execution of the Bulwer-Clayton treaty by the cessation of their claims on Ruatan; two difficulties now remained, the frontier of Belize and the delimitation and settlement of the Mosquito tribe. If the frontier could be defined, and if the Mosquitos could be placed in the enjoyment of their territory by treaty between Great Britain and Nicaragua, in which the concessions and guarantees of the latter in favor of the Indians should be associated with the recognition of the sovereignty of Nicaragua—so I understood the General—than the Bulwer-Clayton treaty might be a permanent and satisfactory settlement between the contracting parties. The United States desired nothing else but an absolute and entire neutrality and independence of the Central American region, free from the exercise of any exclusive influence or ascendancy whatever. The Secretary of State terminated a rather desultory conversation on these matters by stating that his present remarks were to be regarded as of a merely general and speculative nature. The Senate had not yet pronounced; as soon as the decision was known and the resolutions taken they should be transmitted to your lordship through Mr. Dallas, and communicated to myself. General Cass, before I took my leave offered me an emphatic assurance of good will to the Government of Great Britain and expressed the satisfaction which he hoped to find in his correspondence with Her Majesty's mission.

I have, &c.,

NAPIER.

THE EARL OF CLARENDON.

[*The above letter appears as Document 43, in Special Message of President, 29th July, 1882, pp. 106-107.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol 6.

6th May, 1857.

(Lord Napier to Lord Clarendon.)

[*Extract.*]

[No. 14.] WASHINGTON, May 6, 1857. (Received May 25.)

On receiving your lordship's dispatch of the 17th ultimo on the 2d instant, informing me that Her Majesty's Government had not found it expedient to ratify the Central American treaty in its altered shape, and instructing me to propose the conclusion of a new treaty embodying all the resolutions of the United States Senate, with the single addition framed as a safeguard for British interests in the Bay Islands, I determined not to carry your lordship's orders into execution without previously soliciting an interview with the President. His excellency did me the honor to appoint an early day for this purpose, but an attack of illness prevented me from availing myself of his goodness, and it was not until this afternoon that I was enabled to pay my respects to his excellency.

I found the President fully informed of the grounds on which Her Majesty's Government had based their resolution, and of their desire to enter into new engagements, but I think he entertained an impression that the reason alleged by Her Majesty's Government did not really express the whole or the most cogent motive of their objections, and he was not apprised of the terms of the simple qualification which Her Majesty's Government propose to add to the treaty as modified by the Senate.

I placed your lordship's instructions in the hands of the President. He assured me that he was now quite convinced that the non-ratification of the Honduras treaty formed the true and only motive for the rejection of that negotiated by your lordship with Mr. Dallas; that he could hardly understand the importance attached to this point by Her Majesty's Government; that he deeply regretted their determination, and that it was the last ground on which he had anticipated any reluctance.

The President thought Her Majesty's Government had acted unwisely in neglecting this opportunity to close the Central American discussions and place the relations of the two countries on a satisfactory basis at a moment when the public feeling was so friendly on either side of the Atlantic.

After reading the article proposed by Her Majesty's Government he told me, not without some appearance of regret, that unless he changed his opinion, of which he saw little prospect, he could not assent to a stipulation which would involve the recognition by his government of a treaty between Great Britain and Honduras relative to the Bay Islands, and if he did accept such a stipulation it would infallibly be rejected by the Senate.

I argued that whatever there was repugnant to the feelings of the Senate in reference to slavery, or whatever there was unacceptable in regard to trade or government in the treaty of August 27, 1856, might be subjected to some change, and I offered to bring his views on this subject under your lordship's notice, but his excellency held out no hope; his objection pointed to the recognition of any treaty at all—to the bare allusion to it. Great Britain and Honduras might frame any settlement they pleased for the future government of the islands; it was their business, not that of the United States. The United States could not take cognizance of those arrangements in any degree, however remote and indirect.

Finding the President quite firm in this position, I shifted the discussion to the relation of the two countries in case of the official rejection of your lordship's present proposal, remarking that we should fall back on the Clayton-Bulwer treaty, a basis which, if not fixed by arbitration or in some other way would break up under our feet. The President denounced the Clayton-Bulwer treaty as one which had been fraught with misunderstanding and mischief from the beginning; it was concluded under the most opposite constructions by the contracting parties. If the Senate had imagined that it could obtain the interpretation placed upon it by Great Britain, it would not have passed. If he had been in the Senate at the time, that treaty never would have been sanctioned. With reference to arbitration (which I had only thrown in as a suggestion of my own) he observed that he could not give any opinion at present. The President also inveighed against the success of treaties, affirming that they were more frequently the cause of quarrel than harmony, and that, if it were not for the interoceanic communications, he did not see there was any necessity for a treaty respecting Central America at all.

NAPIER.

The EARL OF CLARENDON.

[*The above letter appears as Document 44, in Special Message of President, 29th July, 1882, pp. 108 109.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

29th May, 1857.

(General Cass to Lord Napier.)

WASHINGTON, May 29, 1857.

MY LORD: I have received your lordship's note of the 6th instant, communicating the resolution of the British Government to advise the Queen not to ratify the treaty of the 17th October, 1856, respecting the affairs of Central America, and which had been modified by the Senate of the United States, and in its modified form submitted for the consideration and action of your government. I have laid before the President this note, together with the accompanying *projet* of a new treaty, and I have received his instructions to make known to you his views upon the subject.

The Clayton-Bulwer treaty, concluded in the hope that it would put an end to the differences which had arisen between the United States and Great Britain concerning Central American affairs, had been rendered inoperative in some of its most essential provisions by the different constructions which had been reciprocally given to it by the parties; and little is hazarded in saying that had the interpretation since put upon the treaty by the British Government, and yet maintained, been anticipated it would not have been negotiated under the instructions of any Executive of the United States, nor ratified by the branch of the government intrusted with the power of ratification.

A protracted discussion, in which the subject was exhausted, failed to reconcile the conflicting views of the parties; and as a last resort a negotiation was opened for the purpose of forming a supplementary treaty which should remove, if practicable, the difficulties in the way of their mutual good understanding, and leave unnecessary any further discussion of the controverted provisions of the Clayton-Bulwer treaty. It was to effect this object that the Government of the United States agreed to open the negotiations which terminated in the treaty of October 17th, 1856, and though the provisions of that instrument, even with the amendments proposed by the Senate, were not wholly unobjectionable either to that body or to the President, still, so important did they consider a satisfactory arrangement of this complicated subject that they yielded their objections and sanctioned, by their act of ratification, the convention as amended. It was then transmitted to London for the consideration of Her Britannic Majesty's

Government, and having failed to meet its approbation has been returned unratified. The parties are thus thrown back upon the Clayton-Bulwer treaty, with its disputed phraseology and its conflicting interpretations; and, after the lapse of seven years, not one of the objects connected with the political condition of Central America, which the United States had hoped to obtain by the arrangement, has been accomplished.

Under these circumstances your lordship informs me that the British Government, appreciating the differences which this subject has caused "between the two countries," have determined to propose to the United States the conclusion of a new treaty, and in conformity with your instructions this proposition is accompanied with the *projet* of a convention which, if ratified by the President and Senate of the United States, it is engaged will be ratified by Her Britannic Majesty.

The draft presented is identical in its language with the treaty of October, as ratified by the Senate, except that to that clause of the second separate article which provides for the recognition of the Bay Islands "as under the sovereignty and as part of the Republic of Honduras" there is added the provision:

Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain by which Great Britain shall have ceded, and the Republic of Honduras shall have accepted, the said islands, subject to the provisions and conditions contained in the said treaty.

This provision is a substitute for the provision relating to the same subject contained in the rejected treaty, and which referred to a subsisting convention with Honduras for the cession to that republic of the Bay Islands. Taken in connection with this convention, of which your lordship was good enough on the 10th instant to communicate a copy to this department, upon my application, that provision, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the Republic of Honduras" deprived that country of rights without which its sovereignty over them could scarcely be said to exist. It separated them from the remainder of Honduras, and gave them a government of their own with their own legislative, executive, and judicial officers, elected by themselves. It deprived the government of Honduras of the taxing power in every form, and exempted the people of the Bay Islands from the performance of military duty, except for their own defense, and it prohibited the republic from providing for the pro-

tection of these islands by the construction of any fortifications whatsoever, leaving them open to invasion from any quarter. Had Honduras ratified this treaty, she would have ratified the establishment of an "independent" state within her own limits, and a state at all times liable to foreign influence and control. I am not, therefore, surprised to learn from your lordship that "Her Majesty's Government do not expect that this treaty, in its present shape, will be definitively sanctioned by that republic."

But, while this expectation may be justified by the event, it is certain that the new provision, like the former one, contemplates the cession of the Bay Islands to Honduras, only upon certain "conditions," and that these conditions are to be sanctioned by this government. The proposition, therefore, though changed in form, is the same in substance with that which was recently rejected by the Senate of the United States, and a just respect for the Senate would prevent the President from now consenting to its insertion in a new treaty. The action of that body, moreover, met his cordial approbation, because it is his firm conviction that the Bay Islands are a part of the territory of Honduras, and justly subject to its government and to no other authority. Entertaining this opinion, it would be impossible for him to sanction any arrangement by which their restoration may be made dependent upon conditions either already prescribed or left to be prescribed hereafter. The case of these islands, as your lordship is aware, stands out in bold relief from all the other subjects embraced in the Clayton-Bulwer treaty. That instrument provided that neither of the parties should "colonize" any portion of Central America; and yet more than a year after its ratification, the colony of the Bay Islands was established by an act of the British Government. The United States have always considered that proceeding a violation of the treaty, even with the British construction of it; and the claim for its justification that the Bay Islands are dependencies of the Belize settlement cannot, it is believed, be maintained with success upon either American or British authority. It is directly at variance with the description given by Sir Charles Grey, the secretary of state for the colonies, in 1836, of the boundaries of the Belize settlement; and, from the discussions between the two governments which took place in London in 1854, it cannot be doubted that it was opposed also to the deliberate opinion of Lord Aberdeen, then at the head of the British cabinet.

Independently, however, of these considerations, there is an-

other view of the subject which interposes insuperable obstacles to the desired action of the United States upon this treaty. The character or the extent of the concessions which England may demand of Honduras is nowhere defined in that instrument. Any grant, however inconsistent with the independence or the rights of that republic, if not inconsistent with the express provisions of the treaty, may be demanded by Great Britain, and, if rejected, what then will be the condition of the parties? Great Britain would retain the possession of these islands, with the implied concurrence of the United States, and this valuable group, overlooking one of the great avenues of communication of the world, and in the freedom and security of which the United States have a far deeper interest than any other nation, might thus eventually become a permanent portion of the British Empire. That the United States should decline to make themselves a party to such an arrangement can surely occasion neither surprise nor disappointment to the people or statesmen of Great Britain.

I am, therefore, directed by the President to announce to your lordship that he cannot accept the *projet* of a treaty which, agreeably to your instructions, you have presented for his consideration. But, while feeling it his duty so to decide, he fully reciprocates the desire of your government to cement the amicable relations of the two countries, and, during his administration, no effort shall be wanting on his part to prevent any interruption of that friendly intercourse which both Great Britain and the United States have so many powerful motives to promote.

I have, &c.,

LEWIS CASS.

[*The above letter appears as Document 45, in Special Message of President, 29th July, 1882, pp. 109-111.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

31st May, 1857.

(Lord Napier to Mr. Cass.)

WASHINGTON, May 31st, 1857.

SIR: The disorders which occurred upon the Panama Railway in the month of April, 1856, have not only prompted demands on

the part of the British Government, as well as that of the United States, for reparation on behalf of their subjects, but have impressed upon her Majesty's ministers the expediency of embracing, in concert with other states, such general engagements as may afford to the interests and parties concerned a greater measure of safety in future.

It is not necessary for me to enlarge upon the importance of the interoceanic transit to all the maritime powers. It is obvious that a communication which has become of vital necessity to the commerce of the world cannot be entirely abandoned without stipulation or security, to the disposal of one Government, such as that which possesses sovereign rights over the territory in question.

The cabinet of New Granada requires the counsels and the support of those whose wisdom and whose power enable them to regulate a matter which involves a universal interest, and excites, at present, a constant apprehension. The Government of the United States and Great Britain are most directly concerned in the common pathway of trade, emigration, and intelligence.

Designed in the first instance by the enterprise of American citizens, and administered by a company formed in the United States, the railway of Panama has been largely supported by the resources of Great Britain, both in the original stock and still more in the bonds which were subsequently issued. The participation of English capital in this work is at present estimated to be about \$3,000,000, which may at any moment be increased in the constant circulation and transfer of these securities. In addition to this legitimate source of solicitude for the preservation of the route, Her Majesty's Government have a more direct motive in their friendly intervention for the same purpose, in the fact that the Panama Railroad is at present the only way open to the Pacific dominions of Her Majesty, which may shortly undergo a change of government, and which are undoubtedly destined hereafter to become the seat of a great community of English settlers. With such a stake in the maintenance of the transit, you will not be surprised to learn that I am directed by the Earl of Clarendon to ascertain the views of the Government of the United States with reference to an eventual settlement of this question.

The moment may not yet be thought propitious to negotiate with New Granada, but the altered disposition of that Government may justify an expectation that the claims of the United States and Great Britain will shortly be acknowledged and satisfied, and the

two governments may find it consistent with their interests to make a timely exchange of their sentiments in relation to the future.

I am consequently instructed to inquire whether the United States Government is disposed to agree to a general guarantee on the part of the powers interested in the passage of the Isthmus by which the neutrality of the Panama route and its freedom to all nations would be secured. I learn from Mr. de Sartiges that the expediency of such a measure was brought under his notice by Mr. Marcy in the autumn of last year, and was the subject of a communication to the Government of France. Should the present Government sanction the overture of the late Secretary of State, and continue in the same opinion, it will give me great satisfaction to be the channel of your views with reference to the form and manner in which the object of our common wishes may be carried into effect.

I have, &c.,

NAPIER.

[*The above letter appears as Document 13, in Special Message of President, 8th March, 1880, p. 152.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

22d June, 1857.

(Lord Napier to Lord Clarendon.)

[*Extract.*]

[No. 19.] WASHINGTON, June 22, 1857. (Received July 7th.)

It is probable that if the pending discussions regarding Central America be not closed during the present summer, an attempt will be made in the next session of Congress to set aside the Clayton-Bulwer treaty. My impression to this effect is constantly deepened by reflection and by the information which reaches me from several quarters. There can be no doubt of the views of the President and cabinet in this matter.

NAPIER.

The EARL OF CLARENDON.

[*The above letter appears as Document 46, in Special Message of President, 29th July, 1882, p. 112.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

24th August, 1857.

(Lord Napier to Mr. Cass.)

HER BRITANNIC MAJESTY'S LEGATION,
WASHINGTON, D. C., August 24, 1857.

SIR: I had the honor on the 31st May last to convey to you the desire of Her Majesty's Government to take, in common with the United States, some engagements for the neutrality of the Isthmus of Panama and the security of the transit route. Considering the unsatisfactory character of the relations which have meanwhile prevailed between the Cabinets of Washington and Bogota, I am not surprised that this overture has hitherto remained without any official reply on your part. The instructions and the powers which have recently been placed in the hands of General Herran justify me in believing that the matters under discussion between the two Governments will find an amicable adjustment, and I am prompted by the presence and the communications of that minister to bring this subject again under your consideration.

General Herran is charged to inform you of the desire of his Government to negotiate a convention with the United States, Great Britain, and France, if the Imperial Government be so disposed, with a view to establishing on a broad and permanent basis the freedom and neutrality of the territory and transit of Panama.

Her Majesty's Government are aware that by the treaty of 1846 the Government of the United States has, in consideration of certain advantages, and for a limited period, guaranteed that neutrality and secured to New Granada the rights of sovereignty and property which it possesses in the interoceanic territory. I have not been informed of the precise shape in which Her Majesty's Government desire to consign the engagements of which the general object is indicated above, but I do not doubt that they would willingly adopt the terms of the treaty of 1848 as the basis of a new common arrangement, giving to those terms such expansion in reference to the franchises of transit and the duration of the guarantee as the United States and New Granada might deem desirable. The guarantee of the United States is indeed a powerful support to the Government of New Granada and a discouragement to those, if such there be, who aim at the dismemberment of that confederation, but the combination of America and England for the same object, or that of the maritime powers in general, would no doubt estab-

lish a higher degree of confidence and render any measures which it might be necessary to embrace hereafter for the peace of the Isthmus more easy to the contracting parties, more agreeable to New Granada, and more satisfactory to the commercial interests of the world.

I have, sir,

NAPIER.

[*The above letter appears as Document 13, Inclosure 2, in Special Message of President, 8th March, 1880, p. 153.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol 4.

10th September, 1857.

(Mr. Cass to Lord Napier.)

DEPARTMENT OF STATE,
WASHINGTON, September 10, 1857.

MY LORD: The proposition in your Lordship's letter of the 24th ultimo for a joint convention between the United States, England, and France for the purpose of securing the freedom and neutrality of the transit route over the Isthmus of Panama has been submitted to the President, and I am now instructed to communicate to you his views concerning it.

The President fully appreciates the importance of that route to the commercial nations of the world, and the great advantage which must result from its entire security both in peace and war, but he does not perceive that any new guarantee is necessary for this purpose on the part of the United States.

By the treaty concluded with New Granada on the 12th of December, 1846, to which your lordship has referred, this government guaranteed for twenty years the neutrality of the Isthmus, and also the rights of sovereignty and property over it of New Granada. A similar measure on the part of England and France would give additional security to the transit, and would be regarded favorably, therefore, by this government. But any participation by the United States in such a measure is rendered unnecessary by the arrangement already referred to, and which still remains in full force. It would be inconsistent, moreover, with the established policy of this country to enter into a joint alliance with other powers, as proposed in your lordship's note.

The President is fully sensible, however, of the deep interest which must be felt by all commercial nations, not only in the Panama transit route, but in the opening of all the various passages across the Isthmus by which union of the two oceans may be practically effected. The progress already effected in these works has opened a new era in the intercourse of the world, and we are yet only at the commencement of their results.

It is important that they should be kept free from the danger of interruption either by the governments through whose territories they pass or by the hostile operations of other countries engaged in war.

While the rights of sovereignty of the local governments must always be respected, other rights also have arisen in the progress of events involving interest of great magnitude to the commercial world, and demanding its careful attention, and, if need be, its efficient protection. In view of these interests, and after having invited capital and enterprise from other countries to aid in the opening of these great highways of nations under pledges of free transit to all desiring it, it cannot be permitted that these Governments should exercise over them an arbitrary and unlimited control, and close them or embarrass them without reference to the wants of commerce or the intercourse of the world. Equally disastrous would it be to leave them at the mercy of every nation, which, in time of war, might find it advantageous, for hostile purposes, to take possession of them and either restrain their use or suspend it altogether.

The President hopes that by the general consent of the maritime powers all such difficulties may be prevented, and the interoceanic lines, with the harbors of immediate approach to them, may be secured beyond interruption to the great purposes for which they were established.

I have, &c.,

LEWIS CASS.

[The above letter appears as Document 13, Inclosure 3, in Special Message of President, 8th March, 1880, p. 153.]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

12th October, 1857,

(Lord Napier to Lord Clarendon.)

[*Extract.*]

WASHINGTON, October 12, 1857. (Received October 30.)

MY LORD: I am now assured that the American Cabinet will shortly receive Mr. Yrissari in the quality of minister from Nicaragua, and that a treaty will be negotiated with him for the protection of the inter-oceanic passage by the river San Juan, similar to that contracted between Great Britain and Honduras, for the guarantee of the railway projected across the territory of the latter State.

At the same time the government of Nicaragua have recognized the existence of the old "American Atlantic and Pacific Ship Canal Company," which appeared to have lapsed during the operation of the "Accessory Transit Company," of filibustering notoriety. The original charter of the former association has been modified under the deliberation of the Nicaraguan minister and Mr. Joseph White, the legal adviser of that body. The company is under the nominal presidency of Mr. Stevens, of New York, and is said to comprise some persons of credit and substantial resources, but Mr. White is the active agent in the enterprise. If not officially recognized, his project is viewed with favor by the American Cabinet, and I think it may very probably be carried into operation.

* * * * *

NAPIER.

[*The above letter appears as Document 47, in Special Message of President, 29th July, 1882, p. 112.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

20th October, 1857.

(General Cass to Lord Napier.)

WASHINGTON, October 20, 1857.

MY LORD: I have had the honor to receive your lordship's communication of the 9th instant, in reference to the existing relations between Nicaragua and Costa Rica, and have submitted it to the consideration of the President.

These relations have attracted the earnest attention of the President, not only from the importance of the San Juan transit to the commerce of the world, but from the interest which is naturally felt by the United States in the neighboring republics of this continent. The President has witnessed, therefore, the restoration of peace to Nicaragua and Costa Rica with the highest gratification ; and he sincerely hopes that it may not again be interrupted either by the calamity of civil war or the invasion of their territory from other countries. Their security and welfare would undoubtedly be promoted by a just and friendly settlement between them of their mutual boundaries and jurisdiction ; and I need hardly add that such an adjustment would be viewed with satisfaction by the United States. This government, however, has never admitted the pretensions of Costa Rica to an equal control with Nicaragua of the San Juan River, but has regarded the sovereignty of the river, and consequently of the interoceanic transit by that route, as rightfully belonging to the Republic of Nicaragua.

A similar view of the question appears to have been recognized by Great Britain, and, whatever may be the rights of Costa Rica with respect to the free passage of her own products by the river to the ocean, it is better, probably, that what has been thus acquiesced in, and has led moreover to important contracts and responsibilities, should not now be disturbed. But under any circumstances the commercial nations of the world can never permit the interoceanic passages of the isthmus to be rendered useless for all the great purposes which belong to them in consequence of the neglect or incapacity of the states through whose territories they happen to run. The United States, as I have before had occasion to assure your lordship, demand no exclusive privileges in these passages, but will always exert their influence to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world. The rumored invasion of Central America, which your lordship apprehends may delay the re-establishment of the transit service through Nicaragua, has not escaped the attention of the President, and his views on the subject are clearly indicated in the circular from this Department of the 18th ultimo, which has been printed in the public journals, and has not escaped your lordship's notice.

No nation on earth, it is believed, appreciates its national rights and duties more highly than the United States, and no one is more ready to concede to other nations, whether strong or weak, that measure of justice which it claims for itself. Any such expedition

as that which has been mentioned is forbidden, under severe penalties, by the laws of this country, and these laws the President will take care, on all proper occasions, to enforce.

I have thus endeavored to meet the frank suggestions of your lordship by restating, with corresponding frankness, the general policy of the United States with respect to the governments and the interoceanic transits of Central America; but since your lordship has referred to the Clayton-Bulwer treaty of 1850 as contemplating a "harmonious course of action and counsel between the contracting parties in the settlement of the Central American interests," you will pardon me for reminding your lordship that the differences which this treaty was intended to adjust between the United States and Great Britain still remain unsettled, while the treaty itself has become the subject of new and embarrassing complications.

Until these disagreements can be removed, and the states of Central America can be left to that independent control of their own affairs, with which the continued claims of Great Britain in that quarter seem to this government quite inconsistent, it is easy to see that the harmony of action and counsel between this government and that of Her Britannic Majesty, to which your lordship refers, must be always attended with difficulty, if not found impossible.

It was hoped that these differences would be removed by the approval, on the part of Great Britain, of the amended treaty of October 17, 1856, which had been sanctioned by the President in a spirit of amity towards that kingdom, although its provisions were not wholly in accordance with his views. But the British Government found it necessary to withhold their approval, and the treaty was returned from London unratified.

It was impossible for this government to consent to the treaty in its original form, for reasons which your lordship well understands, and no further discussion has been had on the subject between the two governments.

The President still entertains an earnest hope that all subjects of disagreements which now exist between the United States and Great Britain may be harmoniously adjusted at an early day, but he cannot be insensible to the long delay which has attended their negotiations on the subject of Central America, or to the serious difficulties which the continuance of this delay is calculated to produce.

I avail, &c.,

LEWIS CASS.

[The above letter appears as Document 48, in Special Message of President, 29th July, 1882, pp. 112-114.]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

22d October, 1857.

(Lord Napier to Lord Clarendon.)

[*Extract.*]

[No. 26.]

WASHINGTON, October 22, 1857. (Received November 9.)

On receiving an intimation from your lordship that Her Majesty's Government had determined to send out a special minister to Central America, with a view of adjusting the questions under discussion in that quarter, I sought an interview with the President for the purpose of communicating this intelligence to his Excellency.

The President received me on the afternoon of the 19th instant, and I was enabled to report to your lordship by the mail of the same day, in a private form, the substance of a conversation which I have now the honor to submit to your lordship with more accuracy and extension.

I stated to the President that, since the failure of the late overtures consequent on the non-ratification of the treaty of 1856, Her Majesty's Government had considered the several alternatives of action which were open to their selection, and on a review of the whole case, had resolved to dispatch a representative of authority and experience to Central America, charged to make a definitive settlement of all the matters with regard to which the United States and England were still at variance.

This conclusion had been embraced for some time past, and the delay which had occurred was referable partly to the difficulty of selecting a competent person for a duty which involved much personal inconvenience, and demanded peculiar qualifications, and partly to the nature of the intelligence from India, which had of late absorbed the attention of the English cabinet.

Her Majesty's Government had, however, now appointed Sir William Gore Ouseley for the service alluded to, and felt the greater satisfaction in doing so because he was intimately known to the President and enjoyed his good opinion.

I could not state exactly the character of the instructions with which Sir William Ouseley would be charged, but I might infer from all that had reached me that they would virtually be to the following effect:

The efforts of the new plenipotentiary would be directed to those objects which had been dealt with in the treaty of 1856, now laid

aside, viz, the cession of the Bay Islands to Honduras, the substitution of the sovereignty of Nicaragua for the protectorate of England in Mosquito, and the regulation of the frontiers of Belize.

In short, I believed it was the intention of Her Majesty's Government to carry the Clayton-Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiation with the Central American Republics, in lieu of a direct engagement with the Federal Government.

The President commenced his observations by referring to the Clayton-Bulwer treaty as a fruitful source of misunderstanding between the contracting parties. Without that treaty the United States and Great Britain might long since have co-operated for the welfare of Central America. That treaty had never been acceptable to the people of the United States, and would not have obtained a vote in the Senate had the least suspicion existed of the sense in which it was to be construed by Great Britain; yet if it were now the intention of Her Majesty's Government to execute it according to the American interpretation, that was as much as he could insist upon.

In any arrangement entered into with this purpose, he must, however, remark that the Government of the United States could not recognize as satisfactory the cession of the Bay Islands to Honduras, with stipulations similar to those contained in the treaty lately negotiated between England and that republic, which left the Bay Islands as much under the protection of Great Britain as Mosquito. He did not know what had become of that treaty.

I replied that I felt convinced it had been the intention of her Majesty's Government to deliver the islands to Honduras in full sovereignty, and that the franchises awarded to them by the treaty were designed for the freedom of trade, the protection of the vested interests of British subjects, and the welfare of the inhabitants.

I added that his excellency was well aware of the convictions conscientiously held in England respecting slavery, and of the respect which Her Majesty's Government owed to public feeling on that subject. I might plainly affirm that a principal motive in framing securities for the after government of the Bay Islands had been the apprehension that, when relinquished by the English authorities, those islands would be settled by planters from the United States, who would bring their negroes with them, and thus establish

slavery on soil which had, justly or unjustly, been declared to be a colonial dependency of Great Britain.

Her Majesty's Government, moreover, regarded the Bay Islands as forming, in a manner, one of the termini of the Honduras transit route, and therefore desired to see them endowed with the privileges of a free port, the Island of Tigre, in the Gulf of Fonseca, at the other extremity, having long possessed those immunities.

The President contended that the stipulations were uncalled for and that Her Majesty's Government might have surrendered the islands freely, and subsequently enforced on the Government of Honduras a due respect to the claims of British settlers.

In reply to his excellency, I allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary. I had observed the same impression in the correspondence of Mr. Wyke, Her Majesty's chargé de affaires at Guatemala, who seemed to admit that a greater participation in the internal government might be granted to the authorities of Honduras; that I made no doubt Her Majesty's Government would entertain any reasonable suggestions which might be afforded to them in that sense. As far as I knew the discussion was not closed, and Sir William Ouseley would, probably, have power to enter upon it in a liberal spirit.

I then went on to animadvert upon the danger of some movement in the approaching Congress which would interfere with the contemporary negotiation of Sir William Ouseley, remarking that, should the President in his message allude to the position of the two countries in reference to Central America, and if, in consequence of his excellency's reflections a resolution should be proposed for the abrogation of the Clayton-Bulwer treaty, such a step would not only frustrate the purposes of Sir William Ouseley's mission, but would have a calamitous influence on the future relations of England and America. It would, therefore, be highly gratifying to me to be enabled to assure your lordship that, pending the negotiation intrusted to Sir William Ouseley, no proposal to annul the treaty would be sanctioned or encouraged by his excellency or by the members of his government.

The President stated, in reply, that it was certainly his intention to give an account in his message of all that has passed between the two governments respecting the Dallas Clarendon treaty. He appeared to intimate that the effect of such a narrative would be

to place the conduct of Great Britain in an unfavorable light, and he added that the passage in which he commented upon these transactions was already prepared; but his excellency went on to affirm, with emphasis, that if the resolutions of Her Majesty's Government were such as I had related, if they really meant to execute the Clayton-Bulwer treaty, according to the American interpretation, and would, before the meeting of Congress, make some communication to him in that sense, such as he could use, he would cancel what he had written and insert another passage referring to the mission of Sir William Ouseley, and that "nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

His excellency also distinctly declared that, under the circumstances here described, no attempt against the Clayton-Bulwer treaty in Congress would have any countenance from him whatever. To him it was indifferent whether the concessions contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States, or to treaties between the former and the Central American republics. The latter method might, in some respects, be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party.

I thanked the President for his assurances, and expressed my hope that your lordship would be enabled to make a full communication of Sir William Ouseley's instructions to the American Cabinet, and even to direct that minister to visit Washington, on his way to Central America, if his excellency thought such a step would be advisable. The President replied that a written communication would be sufficient, even if it reached him a few days before the meeting of Congress.

In the course of this interview the President touched incidentally upon the Honduras Railway, which he trusted might prove a successful enterprise, although the impressions which reached him were unfavorable to its practicability, or, at least, to its profitable execution. In this sentiment I concurred with the President, and avowed my apprehension that the undertaking would be the grave of a vast amount of British capital, which had been already so extensively wasted on the American continents.

Allusion having been made to the relations of Costa Rica and Nicaragua, the President asserted that the United States aimed at no exclusive privileges and at no possession in that region; their interests and those of Great Britain were identical. I answered that such had always been my persuasion and my language, and that the parties who had obtained concessions from Costa Rica for the transit or the navigation of the River San Juan, acted, in my belief, without any sanction or authority from Her Majesty's Government. The jurisdiction of the transit was vested in Nicaragua; but Her Majesty's Government, I thought, would desire to secure the beneficial use of the river to Costa Rica for the purposes of import and export trade--a claim which seemed equitable and consistent with the views of the United States with reference to the navigation of the Amazon.

I have the pleasure of reporting to your lordship that the President took occasion to declare his satisfaction in the sympathy which had been displayed throughout the United States towards England since the outbreak of the Indian mutiny, and his own confidence in the success of Her Majesty's arms, which was to be desired in the interest of the natives of Hindostan.

At the conclusion of the interview, as I rose to take my leave, the President resumed the subject and said:

I shall be satisfied on condition that the British Government sends a minister to Central America, instructed to settle all the questions which have been controverted between the two governments according to the American construction of the treaty, and upon receiving an official assurance to this effect I shall change the character of my message.

In affirming the present policy of Her Majesty's Government to be "the execution of the Clayton-Bulwer treaty according to the general tenor of the interpretation placed upon it by the United States," I trust that I have not misconstrued the views of Her Majesty's Government in the mission of Sir William Ouseley.

I am careful in my language on this subject to mark that I spoke on a broad impression of your lordship's intentions, and not on a particular official knowledge of the decision of Her Majesty's Government.

I need not add that the engagements of the President do not depend in any degree on what I have hazarded on my own responsibility, but are altogether contingent on the nature of the communi-

cation which his excellency may receive before the 4th of next December, when Congress will assemble.

NAPIER.

The EARL OF CLARENDON.

[*The above letter appears as Document 49, in Special Message of President, 29th July, 1882, pp. 114-117.*]

47th Congress, 1st Session.
Senate Ex Doc. No. 194.
In Vol. 6.

16th November, 1857.

(Cass-Yrisarri treaty, November 16, 1857.)

The Republic of Nicaragua and the United States of America, being desirous to maintain with each other the most friendly relations, to promote the commercial intercourse of their respective citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific Oceans by the river San Juan de Nicaragua and either or both the lakes of Nicaragua and Managua, or by any other route through the territories of said Republic of Nicaragua, have deemed it expedient to conclude a treaty of friendship, commerce and navigation, and for this purpose have named the following plenipotentiaries, that is to say:

The Republic of Nicaragua, Antonio José de Yrisarri, her envoy extraordinary and minister plenipotentiary in the United States of America;

And the President of the United States of America, Lewis Cass, Secretary of State of the United States; who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens, on the one part, and the Government of the Republic of Nicaragua and its citizens on the other.

ARTICLE II.

There shall be, between all the territories of the United States and the territories of the Republic of Nicaragua, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty, freely and securely, to come, with their

ships and cargoes, to all places, ports and rivers, in the territories aforesaid, to which other foreigners are, or may be, permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively.

In like manner the respective ships of war and post-office packets of the two countries shall have liberty, freely and securely, to come to all harbors, rivers, and places to which other foreign ships of war and packets are, or may be, permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves, by the preceding articles, to treat each other on the footing of the most favored nation, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other State, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible, of proportionate value and effect, to be adjusted by mutual agreement if the concession shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States than are, or shall be, payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor

shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country ; nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce, or manufacture of the territories of the United States or the Republic of Nicaragua, to or from the said territories of the United States, or to or from the Republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher nor other duties or payments, on account of tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels ; nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Nicaragua of any article being the growth, produce and manufacture of the territories of the United States, whether such importations shall be made in Nicaraguan vessels or in vessels of the United States ; and the same duties shall be paid on the importation into the territories of the United States, of any article being the growth, produce, or manufacture of the Republic of Nicaragua, whether such importation shall be made in United States or Nicaraguan vessels.

The same duties shall be paid and the bounties and drawbacks allowed on the exportation to the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States, whether such exportations shall be made in Nicaraguan or United States vessels ; and the same duties shall be paid and the same bounties and drawbacks allowed on the exportation of any articles being the growth, produce, or manufacture of the Republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the Republic of Nicaragua to manage their own affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor to pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into, or exported from, the Republic of Nicaragua, as they shall see good, observing the laws and established customs of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defense of their just rights; and they shall be at liberty to employ, in all cases, the advocates, attorneys, or agents, of whatever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII.

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of the merchandise, goods and effects; the succession to personal estates, by will or otherwise; and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties and rights as native citizens; and they shall not be charged, in any of these respects, with any higher imposts or duties than those which are, or may be, paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union or within the Repub-

lic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate.

But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the state in which it may be situated, there shall be accorded to the said heir, or other successor, such term as the laws of the State will permit to sell such property; he shall be at liberty at all times to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which, in a similar case, would be paid by an inhabitant of the country in which the real estate may be situated.

If any citizen of either of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul or other diplomatic agent of the nation to which the deceased belonged (or the representative of such minister or consul or other diplomatic agent, in case of absence), shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, giving proper notice of such nomination to the authorities of the country.

ARTICLE IX.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with the natives of the country, hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the Republic of Nicaragua, and the citizens of Nicaragua residents in the United States, shall be exempted from all forced (or compulsory) military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged in the same manner as the citizens of each nation to pay lawful taxes, municipal and other modes of imposts and ordinary charges, loans, and contributions in time of peace (as the citizens of the country are liable), in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object, without full and just compensation to be paid in advance; and,

4. The citizens of each of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party.

But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent, and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities whatever as are, or shall be, allowed to the agents of the same rank belonging to the most favored nations ; and, in like manner, the diplomatic agents and consuls of the United States in Nicaragua, shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions, and immunities that are, or may be, granted in the Republic of Nicaragua to the diplomatic agents and consuls of the most favored nations.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of Nicaragua it is agreed that if at any time any interruption of friendly intercourse or any rupture should unfortunately take place between the two high contracting parties, the citizens of either, who may be within the territories of the other, shall, if residing on the coast, be allowed six months, and if in the interior, a whole year, to wind up their accounts and dispose of their property ; and a safe conduct shall be given to them to embark at any port they themselves may select. Even in case of a rupture all such citizens of either of the high contracting parties, who are established in any of the territories of the other in trade or other employment, shall have the privilege of remaining and of continuing such trade or employment without any manner of interruption, in the full enjoyment of liberty and property, so long as they behave peacefully and commit no offense against the laws, and their goods and effects, of whatever descrip-

tion they may be, whether in their own custody or intrusted to individuals, or to the state, shall not be liable to seizure or sequestration nor to any other charges or demands than those which may be made upon the like effects or property belonging to the native citizens of the country in which such citizens may reside. In the same case, debts between individuals, property out in public funds, and shares of companies, shall never be confiscated nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Nicaragua, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and property the protection of the government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, agreeably to the system of tolerance established in the territories of the high contracting parties, provided they respect the religion of the nation in which they reside, as well as the constitution, laws and customs of the country.

Liberty shall be also granted to bury the citizens of either of the two high contracting parties who may die in the territories aforesaid, in burial places of their own, which, in the same manner, may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports or dominions of the other, with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity and given all favor and protection for repairing their vessels, procuring provisions and placing themselves in all respects in a condition to continue their voyage without obstacle or hindrance of any kind.

ARTICLE XIV.

The Republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans through the territories of that republic on any route of communication, natural or artificial, whether

by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed, in the same manner and upon equal terms by both republics and their respective citizens, the Republic of Nicaragua, however, reserving its right of sovereignty over the same.

ARTICLE XV.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua on its part undertakes to establish two free ports, one at each of the extremities of the communications aforesaid on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended *bona fide* for transit across the said routes of communication and not for consumption, within the Republic of Nicaragua.

The United States shall also be at liberty to carry troops and munitions of war in their own vessels or otherwise to either of the said free ports, and shall be entitled to their conveyance between them without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation on either of said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons or property of citizens or subjects of the United States or of any other country across the said routes of communication than are or may be imposed on the persons and property of citizens of Nicaragua. And the Republic of Nicaragua recognizes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The Republic of Nicaragua agrees that, should it become necessary at any time to employ military force for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but, upon failure to do this for any cause whatever, the Government of the United States may, after notice to the Government of Nicaragua, or to the minister thereof in the United States, employ such force, for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

ARTICLE XVII.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Nicaragua.

ARTICLE XVIII.

And it is further understood and agreed that in any grants or contracts which may hereafter be made or entered into by the Government of Nicaragua having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this convention to the Government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist of a valid character, it is further understood that the guarantee and protection of the United States stipulated in Article XV of this treaty shall be held inoperative and void until the holders of such grants or contracts shall recognize

the concessions made in this treaty to the Government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by those concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement, said guarantee and protection shall be in full force; provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad or any other route of communication through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the Republic of Costa Rica to a free passage by the San Juan River for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting powers, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged, at Washington City, within the space of nine months, or sooner, if possible.

In witness whereof the respective plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done at the city of Washington, this sixteenth of November, in the year of our Lord one thousand eight hundred fifty-seven.

LEWIS CASS.
A. J. DE YRISARRI.

[*The above treaty appears—*

I. As Document 9, in Special Message of President, 8th March, 1880, pp. 104–109.

II. As Document 50 in Special Message of President, 29th July, 1882, pp. 117–125.]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

30th November, 1857.

(Lord Napier to General Cass.)

[*Extract.*]

WASHINGTON, November 30, 1857.

SIR: * * * * *

2. In framing stipulations for the compensation, the government, and the preservation of the Mosquito Indians under the sovereignty of Nicaragua, Sir William Ouseley will be guided by the provisions of the treaty of 1856, which, although it did not acquire the validity of an international engagement, may on this point be held to express the policy and opinions of the contracting parties. The limits of the territorial reserve may be subject to modification, but the boundaries proposed to Nicaragua and Honduras will certainly not be less favorable than those indicated by the treaty alluded to; they will in no degree trespass on the territory applicable to transit purposes, and in the settlement of details Her Majesty's envoy will grant an indulgent consideration to the wishes and necessities of the Central American governments when they are compatible with the safety and the welfare of those native tribes which have previously enjoyed the protection of the British crown.

3. The regulation of the frontier of British Honduras will be effected by negotiations with the Government of Guatemala. Her Majesty's Government trusts to obtain from this republic a recognition of limits, which, if we may judge from previous communication on this subject, may be accepted in a spirit of conciliation if not with absolute approval by the President.

Such is, in outline, the basis of the negotiation committed to Sir William Ouseley, as far as regards the construction and execution of the provisions of the Clayton-Bulwer treaty. The interpretation of that instrument thus practically sanctioned by Her Majesty's Government may not strictly coincide with that which is adopted, no doubt in perfect sincerity, by the United States; but the present resolution of Her Majesty's Government involves no slight relaxations of the sense in which, in equal good faith, the engagements of 1850 were contracted by Great Britain. It is hoped that the concessions of Her Majesty's Government will be met in a similar temper by the Government of the United States, that the mission of Sir William Ouseley will be regarded with benevolence, and that, if successfully accomplished, its results will be embraced as an honorable compromise of contending opinions, and as a definitive settlement of those disputed points which have so long attracted the anxious attention of our respective governments.

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NAPIER.

35th Congress, 1st Session.
Senate Doc. No. 11, Part 1.
In Vol. 2.

8th December, 1857.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

The diplomatic difficulties which existed between the Government of the United States and that of Great Britain at the adjournment of the last Congress, have been happily terminated by the appointment of a British minister to this country, who has been cordially received.

Whilst it is greatly to the interest, as I am convinced it is the sincere desire, of the governments and people of the two countries to be on terms of intimate friendship with each other, it has been our misfortune almost always to have had some irritating, if not dangerous outstanding questions with Great Britain.

Since the origin of the government we have been employed in negotiating treaties with that power, and afterwards in discussing their true intent and meaning. In this respect the convention of April 19, 1850, commonly called the Clayton and Bulwer treaty, has been the most unfortunate of all; because the two governments place directly opposite and contradictory constructions upon its first and most important article. Whilst in the United States, we believed that this treaty would place both powers upon an exact equality by the stipulation that neither will ever "occupy, or fortify, or colonize, or assume or exercise any dominion" over any part of Central America, it is contended by the British Government that the true construction of this language has left them in the rightful possession of all that portion of Central America which was in their occupancy at the date of the treaty; in fact, that the treaty is a virtual recognition on the part of the United States of the right of Great Britain, either as owner or protector, to the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, together with the adjacent Bay Islands, except the comparatively small portion of this between the Sarstoon and Cape Honduras. According to their construction, the treaty does no more than simply prohibit them from extending their possessions in Central America beyond the present limits. It is not too much to assert, that if in the United States the treaty had been considered susceptible of such a construction, it never would have been negotiated under the authority of the President, nor would it have received the approbation of the Senate. The universal conviction in the United States was, that when our Government consented to violate its traditional and time-honored policy, and to stipulate with a foreign government never to occupy or acquire territory in the Central American portion of our continent, the consideration for this sacrifice was that Great Britain should, in this respect, at least, be placed in the same position with ourselves.

Whilst we have no right to doubt the sincerity of the British Government in their construction of the treaty, it is at the same time my deliberate conviction that this construction is in opposition both to its letter and its spirit.

Under the late administration negotiations were instituted between the two governments for the purpose, if possible, of removing these difficulties; and a treaty having this laudable object in view was signed at London on the 17th October, 1856, and was

submitted by the President to the Senate on the following 10th of December.

Whether this treaty, either in its original or amended form, would have accomplished the object intended without giving birth to new and embarrassing complications between the two governments, may perhaps be well questioned. Certain it is, however, it was rendered much less objectionable by the different amendments, made to it by the Senate.

The treaty, as amended, was ratified by me on the 12th March, 1857, and was transmitted to London for ratification by the British Government. That government expressed its willingness to concur in all the amendments made by the Senate, with the single exception of the clause relating to Ruatan and the other islands in the Bay of Honduras. The article in the original treaty, as submitted to the Senate, after reciting that these islands and their inhabitants —

having been by a convention bearing date the 27th day of August, 1856, between Her Britannic Majesty and the Republic of Honduras, constituted and declared a free territory under the sovereignty of the said Republic of Honduras—

stipulated that—

the two contracting parties do hereby mutually engage to recognize and respect in all future time the independence and rights of the said free territory as a part of the Republic of Honduras.

Upon an examination of this convention between Great Britain and Honduras of the 27th August, 1856, it was found that, whilst declaring the Bay Islands to be “a free territory under the sovereignty of the Republic of Honduras,” it deprived that republic of rights without which its sovereignty over them could scarcely be said to exist. It divided them from the remainder of Honduras, and gave to their inhabitants a separate government of their own, with legislative, executive, and judicial officers, elected by themselves. It deprived the government of Honduras of the taxing power in every form, and exempted the people of the islands from the performance of military duty, except for their own exclusive defense. It also prohibited that republic from erecting fortifications upon them for their protection, thus leaving them open to invasion from any quarter; and, finally, it provided “that slavery shall not at any time hereafter be permitted to exist therein.”

Had Honduras ratified this convention, she would have ratified the establishment of a state substantially independent within her

own limits, and a state at all times subject to British influence and control. Moreover, had the United States ratified the treaty with Great Britain in its original form, we should have been bound "to recognize and respect in all future time" these stipulations to the prejudice of Honduras. Being in direct opposition to the spirit and meaning of the Clayton and Bulwer treaty, as understood in the United States, the Senate rejected the entire clause, and substituted in its stead a simple recognition of the sovereign right of Honduras to these islands in the following language :

The two contracting parties do hereby mutually engage to recognize and respect the islands of Ruatan, Bonaco, Utila, Barbaretta, Helena, and Morat, situate in the Bay of Honduras, and off the coast of the Republic of Honduras, as under the sovereignty and as part of the said Republic of Honduras.

Great Britain rejected this amendment, assigning as the only reason that the ratifications of the convention of the 27th August, 1856, between her and Honduras, had not been "exchanged, owing to the hesitation of that government." Had this been done, it is stated that "Her Majesty's Government would have had little difficulty in agreeing to the modification proposed by the Senate, which then would have had, in effect, the same-signification as the original wording." Whether this would have been the effect ; whether the mere circumstance of the exchange of the ratifications of the British convention with Honduras prior, in point of time, to the ratification of our treaty with Great Britain would "in effect" have had "the same signification as the original wording," and thus have nullified the amendment of the Senate, may well be doubted. It is, perhaps, fortunate that the question has never arisen.

The British Government, immediately after rejecting the treaty as amended, proposed to enter into a new treaty with the United States, similar in all respects to the treaty which they had just refused to ratify, if the United States would consent to add to the Senate's clear and unqualified recognition of the sovereignty of Honduras over the Bay Islands, the following conditional stipulation :

Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain, by which Great Britain shall have ceded, and the Republic of Honduras shall have accepted the said islands, subject to the provisions and conditions contained in such treaty.

This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous, as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine.

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JAMES BUCHANAN.

WASHINGTON CITY, 8th December, 1857.

[*The above message appears as Document 52, in Special Message of President, 29th July, 1882, pp. 126-128.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

15th February, 1858.

(Lord Napier to General Cass.)

WASHINGTON, February 15, 1858.

SIR: On the 30th of November last I had the honor to convey to you, under the instructions of Her Majesty's Government, a pro-

own limits, and a state at all times subject to British influence and control. Moreover, had the United States ratified the treaty with Great Britain in its original form, we should have been bound "to recognize and respect in all future time" these stipulations to the prejudice of Honduras. Being in direct opposition to the spirit and meaning of the Clayton and Bulwer treaty, as understood in the United States, the Senate rejected the entire clause, and substituted in its stead a simple recognition of the sovereign right of Honduras to these islands in the following language :

The two contracting parties do hereby mutually engage to recognize and respect the islands of Ruatan, Bonaco, Utila, Barbar-etta, Helena, and Morat, situate in the Bay of Honduras, and off the coast of the Republic of Honduras, as under the sovereignty and as part of the said Republic of Honduras.

Great Britain rejected this amendment, assigning as the only reason that the ratifications of the convention of the 27th August, 1856, between her and Honduras, had not been "exchanged, owing to the hesitation of that government." Had this been done, it is stated that "Her Majesty's Government would have had little difficulty in agreeing to the modification proposed by the Senate, which then would have had, in effect, the same-signification as the original wording." Whether this would have been the effect ; whether the mere circumstance of the exchange of the ratifications of the British convention with Honduras prior, in point of time, to the ratification of our treaty with Great Britain would "in effect" have had "the same signification as the original wording," and thus have nullified the amendment of the Senate, may well be doubted. It is, perhaps, fortunate that the question has never arisen.

The British Government, immediately after rejecting the treaty as amended, proposed to enter into a new treaty with the United States, similar in all respects to the treaty which they had just refused to ratify, if the United States would consent to add to the Senate's clear and unqualified recognition of the sovereignty of Honduras over the Bay Islands, the following conditional stipulation :

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This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous, as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

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This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous, as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine.

* * * * *

JAMES BUCHANAN.

WASHINGTON CITY, 8th December, 1857.

[*The above message appears as Document 52, in Special Message of President, 29th July, 1882, pp. 126-128.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

15th February, 1858.

(Lord Napier to General Cass.)

WASHINGTON, February 15, 1858.

SIR: On the 30th of November last I had the honor to convey to you, under the instructions of Her Majesty's Government, a pro-

posal to submit the controverted points in the treaty of 1850, respecting Central American affairs, to the free arbitration of any European power which the Government of the United States should prefer to select for that office. In a separate note under the same date, I imparted to the Government of the United States an outline of the instructions under which Sir William Gore Ouseley has been charged to proceed on a special mission to the Central American republics, with a view to the settlement, by direct negotiation with those states, of the questions which the correspondence of last year in London had failed to adjust. Something in the nature of an alternative was thus offered to the American cabinet. Should the expedient of arbitration be adopted, a great portion of Sir William Ouseley's duty would be transferred to other agencies. Should arbitration be declined it was hoped that the efforts of Her Majesty's envoy would result in a settlement agreeable to the United States, inasmuch as in essential points it would carry the treaty of 1850 into operation in a manner practically conformable to the American interpretation of that instruction.

The note which I had the honor of addressing to you, in reference to the mission of Sir W. Ouseley, has received the official sanction of the Earl of Clarendon, and may therefore be regarded as an authoritative exposition of the intentions of Her Majesty's Government. In that communication, however, I indicated that two obstacles had arisen which might possibly modify the resolutions of Her Majesty's Government: first, the contemporary negotiation of a convention for the protection of the transit route between the Government of the United States and that of Nicaragua; and secondly, the invasion of the Nicaraguan territory by a band of adventurers, who were engaged in an attempt to subvert the lawful government recognized by Great Britain. The impediments to which I alluded do not now exist.

In the treaty contemplated between the United States and Nicaragua, Her Majesty's Government do not see any obstacle in the realization of their designs committed to the management of Sir William Ouseley, while the projects of Walker and his confederates have been arrested by the interposition of the United States Navy, and we may hope definitely extinguished by the reprobation expressed, and the measures adopted by the President of the United States.

Satisfied in respect to the relations between the Government of the United States and Nicaragua, and relieved of the apprehensions

raised by the renewed disturbances of the peace of Central America, Her Majesty's Government are prepared, if necessary, to sanction the departure of Sir William Ouseley on his mission and the execution of his instructions in the most conciliatory spirit.

Her Majesty's Government have, however, received no reply to their proposal for arbitration, a measure which they still regard as embodying the most unexceptionable method for the settlement of existing difficulties.

In requesting to be informed of the definitive resolution of the United States Government on this point, I am enabled to add that, if their determination should be an adverse one, Her Majesty's Government would give a friendly consideration to any observations which you may be disposed to offer on the objects of the mission intrusted to Sir William Ouseley

I have, &c.,

NAPIER.

[*The above letter appears as Document 53, in Special Message of President, 29th July, 1882, pp. 128-129.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

22d March, 1858.

[Lord Napier to Lord Malmesbury.]

[No. 56.] WASHINGTON, March 22, 1858. (Received April 5.)

MY LORD: The overtures made by Her Majesty's late cabinet to the Government of the United States for the adjustment of pending controversies in Central America are known to your lordship from the correspondence between the foreign office and Her Majesty's legation on this subject.

Those proposals comprise an alternative submitted to the selection of the American Government. Her Majesty's Government have offered to refer all the controverted points in the treaty of 1850 to the free arbitration of any European power, or, if more agreeable to the United States, they design to adjust the matters under discussion by negotiation with the Isthmus republics, to which, through the medium of Sir William Ouseley's mission, they are prepared to make such concessions as would carry the treaty of 1850 into operation in the most important particulars, according to the construction placed upon that instrument by the cabinet of Washington.

These modes of settlement both involve the maintenance of the Clayton-Bulwer treaty in its essential principle, viz, the neutrality of the Central American region, the exclusion of the contracting parties from territorial acquisition in a country which, from its configuration and position, possesses a common and momentous interest to the maritime powers.

The conciliatory inclinations of Her Majesty's Government have, however, not stopped here. Prompted by an impression, derived from many sources, that the obligations of the Clayton-Bulwer treaty were repugnant to the people of the United States, and influenced, no doubt, by the declaration of the President in his late message to Congress, in which he intimates a desire for the amicable dissolution of that convention, the Earl of Clarendon authorized me to inform General Cass that her Majesty's Government would not decline the consideration of a proposal for the abrogation of the treaty by mutual concert. An official character was not given to this communication, because the recent overtures of Her Majesty's Government are still under the consideration of the President, and because it seems most natural that the proposal for the repeal of the treaty should emanate from the party to which we are told it has been onerous and unacceptable.

I have, accordingly, on two occasions informed General Cass that if the Government of the United States be still of the same mind, and continue to desire the abrogation of the treaty of 1850, it would be agreeable to Her Majesty's Government that they should insert a proposal to that effect in their reply to my note respecting arbitration, and to that in which I explained the character and motives of the mission intrusted to Her Majesty's commissioner in Central America.

Some conversation ensued regarding the manner in which the dissolution of the treaty should be effected, and the condition by which it might be accompanied, and on these topics I have held the following language, premising that the views expressed were altogether spontaneous and personal, for I had no information of the intentions of Her Majesty's Government beyond the bare fact that they would entertain a proposal to cancel the engagements of 1850, emanating from the United States.

I stated that, in my opinion, the treaty in question could only be repealed by a new treaty in the usual forms, and that it might be desirable that such a treaty should not be restricted to a single article annulling its predecessor. Both for considerations of de

gency and policy, I advocate the insertion of stipulations involving an expression of a common policy in Central America, and the disavowal of any exclusive or monopolizing projects on either side. I said that I thought a treaty might be framed of three articles.

The first should declare the desire of the contracting parties to encourage and protect the organization of transit routes in the interoceanic region, and bind those parties never to negotiate for and rights or privileges of transit with the Central American states of a preferential or exclusive character, to which other nations might not, by negotiation, be equally admitted, establishing thus the principle of an equal enjoyment of those avenues of trade for all the countries of the world.

The second article might recognize the jurisdiction of the transit route by the San Juan River, as being vested in the Government of Nicaragua. This had been already avowed by the United States in a treaty negotiated with that republic. It had not been definitely affirmed by Great Britain, and might seem to clash with the claims of the King of Mosquito to territorial possession or authority in those parts. I thought, however, that in regard to the views lately expressed by Her Majesty's Government in the course of recent negotiations, in consideration of the necessity of obtaining a suitable treaty with Nicaragua, and for the purpose of placing themselves in harmony with the course pursued by the United States, Her Majesty's Government might, on this head, accede to an article which would practically restrict their protectorate in Mosquito, and prevent the imputation of any interference on their part with the territory traversed by the river; and therefore by the transit route.

Finally, I suggested that Article III of the treaty should simply declare the provisions of the treaty of 1850 to be void and of no effect. I added that the question of future territorial acquisition in Central America would thus be thrown open to the United States; that Her Majesty's Government, on the other hand, would retain the colony of Honduras in the proportions which might be given to it by treaty arrangements with Guatemala, and that the Bay Islands would remain attached to the British Crown. Indeed, I affirmed, still as a personal opinion, but of the most positive character, that in case of the dissolution of the Clayton-Bulwer treaty, the Bay Islands would not be relinquished by Her Majesty's Government. I felt bound to make this statement, having observed in some quarters an impression that Her Majesty's Government might be disposed not only to annul the treaty, thus opening a path for the

eventual annexation of the Isthmus to the Federal Union, but to give up the Bay Islands as well; a notion altogether unfounded in any intimation which has hitherto reached me from the foreign office, and which could not be reconciled in my opinion to the interests of England.

In reply to my observations the Secretary of State remarked that he would reserve the subject for consideration of his government. He added, as a personal impression, that he was in favor of a naked, unqualified repeal of the Clayton-Bulwer treaty without conditions, and that such a repeal should be effected in the form of a treaty, though he alluded, with a certain deprecation, to the contingency of the dissolution of the treaty by an act of Congress. He also thought, however, that the matter at issue might be adjusted through the mission of Sir William Ouseley.

I was most careful to remark throughout that the opinions I enunciated with reference to the conditions under which the treaty should be abrogated were exclusively my own; and that it belonged to the Government of the United States to offer a suggestion for the purpose in question, as the overture should proceed from them. The only point on which I spoke with determination was that of the surrender of the Bay Islands, in which I trust that I have not misinterpreted the sentiments of Her Majesty's Government. On the whole, I did not think that my informal communication was as favorably received as the previous declarations of the President and the Secretary of State on this subject might have warranted me in expecting.

I have, &c.,

NAPIER.

The EARL OF MALMESBURY.

[*The above letter appears as Document 54, in Special Message of President, 29th July, 1882, pp. 129-132.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

6th April, 1858.

(Mr. Cass to Lord Napier.)

DEPARTMENT OF STATE,
WASHINGTON, April 6, 1858.

MY LORD: Your recent communications in reference to an adjustment of the Central American questions make it necessary that

I should correct a misapprehension which seems to be entertained by Her Majesty's Government concerning the views of the President on the subject.

The President has always regretted the differences between the United States and Great Britain, which have grown out of their different constructions of the "Clayton Bulwer treaty," and has been sincerely desirous to see them amicably arranged.

In proof of this friendly disposition, he gave his sanction to the Dallas-Clarendon treaty of 1856, as amended by the Senate, notwithstanding the objections which your lordship is aware he entertained to some of its provisions. When this treaty had failed in consequence of the refusal of Great Britain to ratify it in its amended form he was confidentially informed by your lordship, on the 19th of October last, in an interview which you had sought for the purpose "that Her Majesty's Government had considered the several alternatives of action which were open to their selection, and, in a review of the whole case, had resolved to dispatch a representative of authority and experience to Central America, charged to make a definite settlement of all the matters with regard to which the United States and England are still at variance." Your lordship added that Sir William Gore Ouseley had been selected as the representative, and that while you were unable to explain the precise character of his instruction, you "believed it was the intention of Her Majesty's Government to carry the Clayton-Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiations with the Central American republics in lieu of a direct negotiation with the Federal Government."

In reply to this communication you were assured by the President that "if the resolutions of Her Majesty's Government were such as you had related, and they really meant to execute the Clayton Bulwer treaty according to the American interpretation, this was as much as he could insist upon," and "to him it was indifferent whether the concession contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States, or to treaties between the former and the Central American republics." In a reply to a further suggestion of your lordship in respect to what might be the character of his message to Congress on this subject, he finally stated that if before the meeting of Congress he should receive an official announcement on the subject such as he could use, he could refer to Sir William Ouseley's

mission in his message, and nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

The President also distinctly stated, in reference to some apprehension expressed by your lordship lest the mission of Sir William Ouseley might be frustrated by an attempt in Congress to annul the treaty, an attempt which your lordship thought would have a "calamitous influence on the future relations of England and America," that under the circumstances here described no attempt against the Clayton-Bulwer treaty would have any countenance from him whatever. He did not fail, however, to point out to your lordship that no stipulations in respect to the Bay Islands, similar to those contained in the convention then pending between Great Britain and Honduras, would be regarded by the American Government as a satisfactory compliance with the Clayton-Bulwer treaty, and your lordship, in return, allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary, "but made no doubt Her Majesty's Government would entertain any reasonable suggestions which might be offered them in that sense, and Sir William Ouseley would probably have power to enter upon it (the discussion) in a liberal spirit." According to your lordship's account of the interview of which I have freely availed myself in this narrative, you thanked the President for his assurances, and expressed your hope that your lordship (Lord Clarendon) would be enabled to make a full communication of Sir William Ouseley's instructions to the American cabinet, and even to direct that minister to visit Washington on his way to Central America, if his excellency (the President) thought such a step desirable.

In a second interview with the President, on the 24th of October, your lordship reiterated your "belief that the instructions of Sir William Ouseley would, in fact, enable him to sanction the execution of the treaty by direct arrangements with the Central American Republics, in conformity with the general tenor of the interpretation placed upon them by the United States," and then proceeded to suggest how important it was, therefore, "to know what is the sense attached to the Clayton-Bulwer treaty by the Government of the United States." These expressions were met by the President in the same friendly spirit which he had manifested at the previous interview, and while in response to your lordship's suggestion he did not fail to mention what he regarded as the leading re-

quirements of the Clayton-Bulwer treaty, according to the American construction of it, he withdrew nothing of his previous assurance that an adjustment of the Central American questions, according to that construction, would be entirely acceptable to him whether this adjustment should be made by direct negotiation with the Central American States, or by a treaty between the United States and Great Britain.

Similar views to those which were thus expressed by your lordship in these conversations had been previously communicated to me in the same confidential manner, and by me reported to the President.

On the 30th of November, however, I received from your lordship a notice of Sir William Ouseley's mission, together with a statement in outline of its leading objects. This statement not only did not communicate the full instructions under which that plenipotentiary was to carry into effect the Clayton-Bulwer treaty according to the American construction of it, but left it to be inferred that the new negotiations were to be based, not upon the treaty of 1850, but upon the Dallas-Clarendon treaty of 1856.

The special commission, according to your lordship's communication, was "charged with the duty of negotiating arrangements conformable in general character to those contemplated by the treaty signed by the secretary of state for foreign affairs and the United States minister in 1856, but subject to certain modifications which may be consistent with the just claims of the Central American republics, with the general welfare of trade, with the vested interests of British subjects, and which will be, at the same time, agreeable to the wishes of the United States."

This substitution of a basis of the new negotiations of a treaty which had never represented the views and policy of this Government, which had undergone important alterations in the Senate, which even after these alterations had been adopted with hesitation both by the President and the Senate as a "compromise" for the sake of peace, and which, at least, had been rejected by Great Britain because it was unwilling to sanction the Senate's amendments to it -- this substitution of the Dallas-Clarendon treaty with some undefined modifications instead of the plain and precise basis which was implied in the American construction of the convention of 1850, could not fail to arrest the attention of the President and increase his anxiety to receive a more definite account of Sir William Ouseley's instructions. This anxiety was not diminished by the dispatch

of Lord Clarendon of November 20, which was transmitted with your lordship's communication of December 5, for in that dispatch not only was the Dallas Clarendon treaty referred to as a basis of the new negotiations, without any explanations whatever of the precise modifications which the commissioner was authorized to make in its provisions, but it was even urged as a matter of "concern and disappointment" that the Government of the United States, "so far from desiring to facilitate the adjustment of these questions, are inclined to require admissions on the part of this country (Great Britain) which, if made, would render all negotiations superfluous." Since the only condition which has been made by this Government was that the treaty should be executed according to the American construction of it, and this condition had been, moreover, a part of the original proposition made by your lordship to the President, it is difficult to understand how the expression of it in your report of your interviews with the President could have occasioned Lord Clarendon either "concern" or "disappointment." Equally surprising was the declaration of his lordship in the same dispatch that "it cannot be expected that the British Government, which entertains no doubt as to the true intent and meaning of the Clayton-Bulwer treaty, should abandon their opinion in order to adopt the adverse interpretation put upon that treaty by the Government of the United States," because it was according to the general tenor of this very interpretation that your lordship informed the President, on the 19th of October, you believed it was the intention of Her Majesty's Government to carry the Clayton Bulwer treaty into execution, and it was only on this basis that the President had given the assurances to your lordship to which I have already adverted. In view of the tone and language of this dispatch of Lord Clarendon the President might have been fully justified in withdrawing these assurances of October last, because the condition upon which they were given appeared now to be unsatisfactory to Her Majesty's Government. But since he was assured that Her Majesty's Government desired to persevere in the mission of Sir William Ouseley's, and since it was only reasonable to believe that this mission had been undertaken in a friendly spirit, he determined to do nothing which might either frustrate or delay it, unless he should feel compelled to do so after receiving that full information on the subject which he still had reason to expect. Accordingly, in his message to Congress, after describing the position which the Central American question then occupied, he added: "Whilst entertaining these sentiments I shall

nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate, but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine."

The view here taken of Sir William Ouseley's mission is precisely that which was taken of it in your lordship's interviews with the President on the 19th and 24th of October, and precisely that which this Government has ever since steadily maintained. Soon after the meeting of Congress it was understood that some delay was thought necessary in the prosecution of the mission, in consequence of the expedition of Walker, and the treaty which had been negotiated between the United States and Central America, concerning both of which events your lordship seemed desirous to ascertain the opinions of your Government. In repeated conversations with your lordship on this subject I was led to infer that when these opinions were known I should receive a further communication in reference to the instructions and purposes of Her Majesty's special commissioner, and in these interviews I was careful to express my sincere hope that these instructions and purposes would be found of such a character as to meet the cordial concurrence of the President.

No such communication, however, has been received, and this Government has now no more definite information concerning Sir William Ouseley's mission than it had when the President referred to it in his message to Congress on the 8th of December.

I am instructed, therefore, to request from your lordship a full and definite statement of the arrangements by which it is proposed that this mission shall carry into effect the Clayton-Bulwer treaty, according to the American interpretation of it. This request, as your lordship must perceive, has become necessary in reference to Sir William Ouseley's mission in which the President has been placed by the proceedings of Her Majesty's Government.

The President has expressed his entire concurrence in the proposal for an adjustment of the Central American question which was made to him by your lordship last October, and he does not wish that any delay or defeat of that adjustment shall be justly chargeable to this Government. Since, however, he is asked to co-operate in the arrangement by which it is expected to accom-

plish it, it is essential that he should know with reasonable accuracy what those arrangements are. This information becomes the more important in consequence of the idea which seems to prevail in Lord Clarendon's dispatches of November 20, that the American interpretation of the Clayton-Bulwer treaty of 1850 was to be found in the provisions of the Dallas-Clarendon treaty of 1856.

I need not repeat to your lordship that this idea is clearly erroneous, because your lordship is aware that the treaty of 1856 was an attempt to reconcile the conflicting views of the two governments, and did not pretend to adopt, in their full extent, the claim of either. Without, however, any further reference to this rejected treaty, I am instructed by the President to express his sincere hope that the more perfect information which he hopes to have concerning the mission of Sir William Ouseley may justify him in anticipating from it a substantial execution of the Clayton-Bulwer treaty according to the general tenor of the American interpretation of it. In that event he will be happy to give it his cordial co-operation, and to direct the ministers of the United States in Central America to render any assistance in their power towards promoting its success.

The prosecution of this mode of adjustment, I need hardly remind your lordship, must necessarily exclude the adoption of any other alternative. I was surprised, therefore, on the 27th of October, only eight days after the interview with the President, in which your lordship had announced the mission of Sir William Ouseley, and the President had expressed his concurrence in it, to hear your lordship, in conversation at this department, propose a different alternative, and renew the offer of arbitration which had been previously declined by this Government, and which I did not hesitate to decline again.

On the 30th of November, the very day when the first official announcement was made of Sir William Ouseley's mission, I was still more surprised that this offer of arbitration was formally renewed, but I regarded it as sufficiently answered by the express concurrence of the President in the mode of adjustment contemplated by that mission, even if it had not been twice rejected before. In conversation with your lordship since this last offer I have freely expressed to you my views concerning it, but in order to avoid any misapprehension on the subject I am instructed to inform you that the reasons which caused the rejection of the offer of arbitration when it was first proposed by Great Britain, still exist, and that for these reasons it is again declined.

Should Sir William Ouseley's mission be successful in giving effect to the Clayton-Bulwer treaty according to the American construction of it, it will be unnecessary, of course, for either the United States or Great Britain to consider the question of its abrogation; had this abrogation been promptly made as soon as it was discovered that the treaty was understood by the parties to it in senses directly opposite, it is quite possible that the Central American questions might have been adjusted ere this to the satisfaction of both governments, and if the abrogation could be accomplished now, by substituting a new adjustment of these questions for that which has lead to so much discussion in the convention of 1850, this might be a fortunate termination of the whole controversy. But after eight years of fruitless negotiation, to abandon the treaty, without any arrangement whatever of the difficulties out of which it grew, would be almost to abandon at the same time all hope of adjusting these difficulties in a peaceful manner.

In a recent conversation with your lordship on this subject, I understood you to say that while Great Britain might possibly consent to dissolve the treaty, it would, in your belief, expect the dissolution to be accompanied by some stipulations which Her Majesty's Government desire to have, in respect to the transit routes across the Isthmus, but it had no intention, in that event, of relinquishing any of the possessions which it now has in Central America. With this understanding of your suggestion, I replied that in my judgment the President would never consent, while Great Britain continued to maintain her Central American possessions, to make new concessions to her interest in that quarter, but would prefer rather that the dissolution of the treaty should be naked and unconditional. From your lordship's "confidential" note to Lord Malmesbury of the 22d ultimo, I now learn that in advising certain new stipulations to accompany the repeal of the treaty of 1850 should such a repeal be determined on, you had "never designed to represent those suggestions as official or unalterable, or to intimate that Her Majesty's Government would not listen to any amicable proposal for the simple revocation of the treaty alluded to."

I understand your lordship, however, to remain firmly of opinion that if the treaty should be dissolved, Her Majesty's Government would relinquish none of its pretensions in Central America, and that the Bay Islands especially "would remain attached to the British Crown." Since it is well known that the views of this Government are wholly inconsistent with these pretensions, and that it

can never willingly therefore acquiesce in their maintenance by Great Britain, your lordship will readily perceive what serious consequences might follow a dissolution of the treaty if no provision should be made at the same time for adjusting the questions which led to it.

If, therefore, the President does not hasten to consider now the alternative of repealing the treaty of 1850, it is because he does not wish prematurely to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries.

I have, &c., &c.,

LEWIS CASS.

[*The above letter appears as Document 9, Inclosure 2, in Special Message of President, 8th March, 1880, p. 109.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

8th April, 1858.

(Lord Malmesbury to Lord Napier.)

[No. 58.]

FOREIGN OFFICE, April 8, 1858.

MY LORD: I have received your lordship's dispatch of the 22d ultimo, reporting your conversation with General Cass upon the disposition of Her Majesty's Government to concur in a proposal to set aside the Clayton-Bulwer treaty, and I have to acquaint your lordship that Her Majesty's Government entirely approve of your having placed on record, by delivering to General Cass copies of those despatches, that they were ready to abrogate that treaty.

In this state of things it will be proper that your lordship should abstain from any further discussion on that point, leaving the Government of the United States to appreciate as they may, the announcement which you have there made of the readiness of Her Majesty's Government to concur with the view of the subject expressed in the President's message. And your lordship, without further adverting to the question of abrogation, will only press for an early and decided answer to the proposal respecting arbitration which you have submitted to the Government of the United States. You will evince no eagerness for the acceptance of that proposal;

neither will you exhibit anxiety for the abrogation of the treaty; and if the proposal is rejected you will not officially bring forward as the alternative the abrogation of the Clayton treaty, but announce your intention to report home and wait for instructions.

Her Majesty's Government, if the initiative is still left to them by the unwillingness of the United States themselves to propose abrogation, desire to retain full liberty as to the manner and form in which any such proposal shall be laid on their behalf before the cabinet at Washington; but, without pronouncing any decided opinion at the present moment, I think it right to point out to your lordship that the effect of such an article as that suggested in your despatch as the second might be to perpetuate an entanglement with the Government of the United States, and to place that Government in a position to question or control the free action of Her Majesty's Government in everything that relates to Central America. The Clayton-Bulwer treaty has been a source of unceasing embarrassment to this country and Her Majesty's Government, if they should be so fortunate as to extricate themselves from the difficulties which have resulted from it, will not involve themselves, directly or indirectly, in any similar difficulties for the future.

Her Majesty's Government would have no objection to enter with the United States into a self-denying engagement, such as that suggested in your first article, by which both parties should renounce all exclusive advantage in the use of any of the interoceanic routes, and should bind themselves each to the other, not to interfere with free transit. Such an article would be a suitable substitute for the Clayton-Bulwer treaty, for it would secure, as regards the contracting parties, the avowed object of that treaty—the freedom of interoceanic communication.

But beyond this Her Majesty's Government, as at present advised, are not prepared to contract any engagement as a substitute for the Clayton-Bulwer treaty, and from the abrogation of that compact, if it should take place, they will hold themselves as free to act in regard to Central America in the manner most conducive to the advancement of British interests and the fulfillment of British obligations as if the treaty had never been concluded.

Your lordship was, therefore, perfectly right in using decided language, such as that reported in your dispatch respecting the Bay Islands, and whenever the subject of the abrogation of the Clayton-Bulwer treaty is mooted in your presence, you will make it perfectly clear to the Government of the United States that to abrogate the

mission in his message, and nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

The President also distinctly stated, in reference to some apprehension expressed by your lordship lest the mission of Sir William Ouseley might be frustrated by an attempt in Congress to annul the treaty, an attempt which your lordship thought would have a "calamitous influence on the future relations of England and America," that under the circumstances here described no attempt against the Clayton-Bulwer treaty would have any countenance from him whatever. He did not fail, however, to point out to your lordship that no stipulations in respect to the Bay Islands, similar to those contained in the convention then pending between Great Britain and Honduras, would be regarded by the American Government as a satisfactory compliance with the Clayton-Bulwer treaty, and your lordship, in return, allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary, "but made no doubt Her Majesty's Government would entertain any reasonable suggestions which might be offered them in that sense, and Sir William Ouseley would probably have power to enter upon it (the discussion) in a liberal spirit." According to your lordship's account of the interview of which I have freely availed myself in this narrative, you thanked the President for his assurances, and expressed your hope that your lordship (Lord Clarendon) would be enabled to make a full communication of Sir William Ouseley's instructions to the American cabinet, and even to direct that minister to visit Washington on his way to Central America, if his excellency (the President) thought such a step desirable.

In a second interview with the President, on the 24th of October, your lordship reiterated your "belief that the instructions of Sir William Ouseley would, in fact, enable him to sanction the execution of the treaty by direct arrangements with the Central American Republics, in conformity with the general tenor of the interpretation placed upon them by the United States," and then proceeded to suggest how important it was, therefore, "to know what is the sense attached to the Clayton-Bulwer treaty by the Government of the United States." These expressions were met by the President in the same friendly spirit which he had manifested at the previous interview, and while in response to your lordship's suggestion he did not fail to mention what he regarded as the leading re-

quirements of the Clayton-Bulwer treaty, according to the American construction of it, he withdrew nothing of his previous assurance that an adjustment of the Central American questions, according to that construction, would be entirely acceptable to him whether this adjustment should be made by direct negotiation with the Central American States, or by a treaty between the United States and Great Britain.

Similar views to those which were thus expressed by your lordship in these conversations had been previously communicated to me in the same confidential manner, and by me reported to the President.

On the 30th of November, however, I received from your lordship a notice of Sir William Ouseley's mission, together with a statement in outline of its leading objects. This statement not only did not communicate the full instructions under which that plenipotentiary was to carry into effect the Clayton-Bulwer treaty according to the American construction of it, but left it to be inferred that the new negotiations were to be based, not upon the treaty of 1850, but upon the Dallas-Clarendon treaty of 1856.

The special commission, according to your lordship's communication, was "charged with the duty of negotiating arrangements conformable in general character to those contemplated by the treaty signed by the secretary of state for foreign affairs and the United States minister in 1856, but subject to certain modifications which may be consistent with the just claims of the Central American republics, with the general welfare of trade, with the vested interests of British subjects, and which will be, at the same time, agreeable to the wishes of the United States."

This substitution of a basis of the new negotiations of a treaty which had never represented the views and policy of this Government, which had undergone important alterations in the Senate, which even after these alterations had been adopted with hesitation both by the President and the Senate as a "compromise" for the sake of peace, and which, at least, had been rejected by Great Britain because it was unwilling to sanction the Senate's amendments to it—this substitution of the Dallas-Clarendon treaty with some undefined modifications instead of the plain and precise basis which was implied in the American construction of the convention of 1850, could not fail to arrest the attention of the President and increase his anxiety to receive a more definite account of Sir William Ouseley's instructions. This anxiety was not diminished by the dispatch

of Lord Clarendon of November 20, which was transmitted with your lordship's communication of December 5, for in that dispatch not only was the Dallas Clarendon treaty referred to as a basis of the new negotiations, without any explanations whatever of the precise modifications which the commissioner was authorized to make in its provisions, but it was even urged as a matter of "concern and disappointment" that the Government of the United States, "so far from desiring to facilitate the adjustment of these questions, are inclined to require admissions on the part of this country (Great Britain) which, if made, would render all negotiations superfluous." Since the only condition which has been made by this Government was that the treaty should be executed according to the American construction of it, and this condition had been, moreover, a part of the original proposition made by your lordship to the President, it is difficult to understand how the expression of it in your report of your interviews with the President could have occasioned Lord Clarendon either "concern" or "disappointment." Equally surprising was the declaration of his lordship in the same dispatch that "it cannot be expected that the British Government, which entertains no doubt as to the true intent and meaning of the Clayton-Bulwer treaty, should abandon their opinion in order to adopt the adverse interpretation put upon that treaty by the Government of the United States," because it was according to the general tenor of this very interpretation that your lordship informed the President, on the 19th of October, you believed it was the intention of Her Majesty's Government to carry the Clayton Bulwer treaty into execution, and it was only on this basis that the President had given the assurances to your lordship to which I have already adverted. In view of the tone and language of this dispatch of Lord Clarendon the President might have been fully justified in withdrawing these assurances of October last, because the condition upon which they were given appeared now to be unsatisfactory to Her Majesty's Government. But since he was assured that Her Majesty's Government desired to persevere in the mission of Sir William Ouseley's, and since it was only reasonable to believe that this mission had been undertaken in a friendly spirit, he determined to do nothing which might either frustrate or delay it, unless he should feel compelled to do so after receiving that full information on the subject which he still had reason to expect. Accordingly, in his message to Congress, after describing the position which the Central American question then occupied, he added: "Whilst entertaining these sentiments I shall

nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate, but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine."

The view here taken of Sir William Ouseley's mission is precisely that which was taken of it in your lordship's interviews with the President on the 19th and 24th of October, and precisely that which this Government has ever since steadily maintained. Soon after the meeting of Congress it was understood that some delay was thought necessary in the prosecution of the mission, in consequence of the expedition of Walker, and the treaty which had been negotiated between the United States and Central America, concerning both of which events your lordship seemed desirous to ascertain the opinions of your Government. In repeated conversations with your lordship on this subject I was led to infer that when these opinions were known I should receive a further communication in reference to the instructions and purposes of Her Majesty's special commissioner, and in these interviews I was careful to express my sincere hope that these instructions and purposes would be found of such a character as to meet the cordial concurrence of the President.

No such communication, however, has been received, and this Government has now no more definite information concerning Sir William Ouseley's mission than it had when the President referred to it in his message to Congress on the 8th of December.

I am instructed, therefore, to request from your lordship a full and definite statement of the arrangements by which it is proposed that this mission shall carry into effect the Clayton-Bulwer treaty, according to the American interpretation of it. This request, as your lordship must perceive, has become necessary in reference to Sir William Ouseley's mission in which the President has been placed by the proceedings of Her Majesty's Government.

The President has expressed his entire concurrence in the proposal for an adjustment of the Central American question which was made to him by your lordship last October, and he does not wish that any delay or defeat of that adjustment shall be justly chargeable to this Government. Since, however, he is asked to co-operate in the arrangement by which it is expected to accom-

treaty is to return to the *status quo ante* its conclusion in 1850; that Her Majesty's Government have no kind of jealousy respecting American colonization in Central America, which, indeed, it would help to civilize; and that we neither ask nor wish for any exclusive privileges whatever in those regions.

I am, &c.,

MALMESBURY.

LORD NAPIER.

[*The above letter appears as Document 55, in Special Message of President, 29th July, 1882, pp. 132-133.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

25th July, 1858.

(Mr. Cass to Mr. Lamar.)

[*Extract.*]

[No. 9.]

DEPARTMENT OF STATE,

WASHINGTON, July 25, 1858.

SIR: * * * These great avenues of inter-communication are vastly interesting to all commercial powers, and all may well join in securing their freedom and use against those dangers to which they are exposed from aggressions or outrages, originating within or without the territories through which they pass.

But the establishment of a political protectorate by any of the powers of Europe over any of the independent States of this continent, or, in other words, the introduction of a scheme or policy which would carry with it a right to interfere in their concerns, is a measure to which the United States have long since avowed their opposition, and which, should the attempt be made, they will resist by all the means in their power.

The reasons for the attitude they have assumed have been fully promulgated, and are everywhere well known. There is no need upon this occasion to recapitulate them. They are founded on the political circumstances of the American Continent, which has interests of its own, and ought to have a policy of its own, disconnected from many of the questions which are continually presenting themselves in Europe, concerning the balance of power, and other subjects of controversy arising out of the condition of its States, and which often find their solution or their postponement in war. It is

of paramount importance to the States of this hemisphere that they should have no entangling union with the powers of the Old World ; a connection which would almost necessarily make them parties to wars having no interest in them, and which would often involve them in hostilities with the other American States, contiguous or remote. The years which have passed by since this principle of separation was first announced by the United States have served still more to satisfy the people of this country of its wisdom and to fortify their resolution to maintain it happen what may.

The progress of events has rendered the interoceanic routes across the narrow portions of Central America vastly important to the commercial world, and especially to the United States, whose possessions extending along the Atlantic and Pacific coasts demand the speediest and easiest modes of communication. While the just rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights will be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of Eastern isolation, to close these gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them, and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust regulations as would prevent their general use. The United States do not seek either the control or the exclusive use of these routes. They desire that the advantages should be equally common to all nations. Nor do they claim to interfere with the local governments in the determination of the questions connected with the opening of the routes, and with the persons with whom contracts may be made for that purpose. What they do desire, and mean to accomplish, is that the great interests involved in this subject should not be sacrificed to any unworthy motive, but should be guarded from abuse, and that when fair contracts are fairly entered into with American citizens, they should not be wantonly violated.

Other nations will no doubt pursue the same course in relation to their citizens or subjects who may have similar interests.

But besides these general considerations applicable to this subject, there are others which impose additional obligations upon these

Isthmian Powers, and which bear with equal force upon their relations with other nations. Several of these powers, and Nicaragua especially, have in fact, by their public proceedings invited the co-operation of the capital, and industry, and enterprise of the world in order to open these lines of communication. The citizens of the United States have contributed their full share towards the accomplishment of the enterprise, and this government intends to use the means in its power to protect them in the enjoyment of their rights. The good faith of Nicaragua has been committed, and large sums have been expended looking to its faithful observance.

A paper has recently appeared in the public journals, to which I have already referred, purporting to be a contract between the governments--the Presidents rather--of Costa Rica and of Nicaragua and M. Belly, a French citizen, and his associates, constituting a new canal-route company, and providing for its operations. Nothing is known here officially of the authenticity of this paper, but it carries with it a strong probability that it is genuine, and presuming it to be so it furnishes you with an occasion to lay before these governments the views of the United States respecting their own interests and the interests of their citizens involved in the contracts for opening transit routes. So far as regards the action of Costa Rica, the President adheres to the views laid down in the instructions to our special agent, Mr. Jones, a copy of which has been communicated to those governments, and also furnished to yourself. And the United States, while they interpose no objection to an amicable adjustment by those republics of the question of their boundary line, will recognize no arrangement which interferes with the existing transit interests as insisted on in those instructions.

The United States no more claim for their citizens an exclusive right to form contracts for opening these transit routes than they claim for them the exclusive use of the routes when the work is completed. Their construction is a fair object of competition for the citizens and subjects of all other powers. The work is as open to M. Belly and his associates as to any other enterprising person. There are but two points connected with this matter which have any interest for the United States, or which would justify their intervention. The first is, that no contract with M. Belly, or with any one, indeed, should interfere with engagements previously existing with American citizens, but that all such engagements should be preserved inviolate; and the second is, that the regulations and conditions of the grant should be such as to render the routes free and

safe to all nations, but controlled by no one, and upon moderate and reasonable terms. It would be equally impolitic and unjust for these governments, in a desire to make those great undertakings profitable to themselves, without furnishing any contribution towards their construction, to levy onerous charges upon the persons and property destined to pass over them, and by this means interpose serious obstacles to their general use. These local governments should look to the vast benefits which these enterprises will bring to the countries through which they pass, and not strive by excessive impositions to make them sources of revenue, and defeat, by this ill-judged measure, the very object sought to be obtained.

It is not necessary that I should enter into a detailed examination of M. Belly's contract. There are physical and financial obstacles, as well as political ones, in the way of its execution, some of which can hardly be overcome. I shall, therefore, only advert to one of the provisions, rather with a view to the future proceedings of these governments than from any practical bearing it will have in this case.

But previously to doing so I will bring to your notice one extraordinary stipulation which it could scarcely have been expected would be acceptable to the United States, and which must have been entered into in the anticipation of their objections to it. Those objections are insurmountable.

This obnoxious arrangement provides that the French Government shall have the right to keep two ships of war stationed in the waters of Lake Nicaragua for the entire duration of the works.

I am persuaded that this proposition will meet no favor from the French Government, and that its name has been introduced here unwarrantably and without its knowledge. The equality and security of these interoceanic routes constitute a great portion of their value to the world, and all commercial powers are interested in their maintenance. An exclusive right in one of these powers to exercise a permanent armed intervention would give serious cause of dissatisfaction to all the others, and the United States freely avow their determination to oppose such a measure should the Governments of Costa Rica and Nicaragua attempt to carry it into effect.

But there are additional conditions applicable to this contract with Mr. Belly and to other contracts for similar purposes entered into by the Government of Nicaragua which commend themselves to the Government of the United States, and will not be disregarded. There are several American citizens

who, with different interests, claim to have formed engagements with the proper authorities of Nicaragua for opening and using the transit routes, with various stipulations defining their privileges and duties, and some of these contracts have already been in operation. This government has neither the authority nor the disposition to determine the conflicting interests of these claimants; but what it has the right to do, and what it is disposed to do, is to require that the Government of Nicaragua should act in good faith towards them, and should not arbitrarily and wrongfully divest them of rights justly acquired and solemnly guaranteed. The United States believe it to be their duty, and they mean to execute it, to watch over the persons and property of their citizens visiting for eign countries, and to intervene for their protection when such action is justified by existing circumstances and by the law of nations. Wherever their citizens may go through the habitable globe, when they encounter injustice they may appeal to the government of their country, and the appeal will be examined into with a view to such action in their behalf as it may be proper to take. It is impossible to define in advance and with precision those cases in which the national power may be exerted for their relief, or to what extent relief shall be afforded. Circumstances as they arise must prescribe the rule of action. In countries where well-defined and established laws are in operation, and where their administration is committed to able and independent judges, cases will rarely occur where such intervention will be necessary. But these elements of confidence and security are not everywhere found, and where that is unfortunately the case the United States are called upon to be more vigilant in watching over their citizens, and to interpose efficiently for their protection when they are subjected to tortious proceedings, by the direct action of the government, or by its indisposition or inability to discharge its duties.

But there is yet another consideration which calls for the attention of this government. These contracts with their citizens have a national importance. They affect not ordinary interest merely, but questions of great value, political, commercial, and social, and the United States are fully justified by the considerations already adverted to in taking care that they are not wantonly violated, and the safe establishment of an interoceanic communication put to hazard or indefinitely postponed. The course of the Government of Nicaragua with relation to these engagements contains nothing in it reassuring, for the future contracts duly executed with all the

forms of law, carrying with them important vested rights, have been arbitrarily set aside by executive decrees—a mode of proceeding not recognized in the contracts themselves—and without resorting to the action of judicial tribunals. The facts in dispute have been unjustly assumed, and the hand of violence has been laid upon solemn engagements which ought to have found their security in the good faith of the government. I am not aware that in any case has the forfeiture of a contract been declared in any other way than by an arbitrary executive decree. This is a state of things to which no nation is bound to submit. It is vain to expect that the means of men and money required from other nations for the execution of these works will be furnished in the face of such manifestations of bad faith. Without confidence these great enterprises must fail ; nor is it probable that one of them requiring a heavy outlay would now be undertaken and completed without some surer guarantee for their protection than would be furnished by the engagements of these Central American States. The danger of violation is too well known and appreciated to justify the expectation of the investment of capital under such unpropitious circumstances.

So long as a pecuniary object is supposed to furnish a motive for rescinding existing contracts and forming new ones, without any regard to vested rights, no progress will be made in the construction of canals or of other permanent and expensive works for transportation.

The United States, acting in behalf of their citizens, object to this system of confiscation, and they do not doubt but that they will have the concurrence of all other powers who have similar interests in these vastly important measures. What the United States demand is, that in all cases where their citizens have entered into contracts with the proper Nicaraguan authorities, and questions have arisen, or shall arise, respecting the fidelity of their execution, no declaration of forfeiture, either past or to come, shall possess any binding force unless pronounced in conformity with the provisions of the contract, if there are any, or if there is no provision for that purpose, then unless there has been a fair and impartial investigation in such a manner as to satisfy the United States that the proceeding has been just and that the decision ought to be submitted to.

Without some security of this kind, this government will consider itself warranted, whenever a proper case arises, in interposing such means as it may think justifiable, in behalf of its citizens who may

have been or who may be injured by such unjust assumption of power.

* * * * *

I am, &c.,

LEWIS CASS.

[*The above letter appears as Document 56, in Special Message of President, 29th July, 1882, pp. 133-137.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

8th November, 1858.

(Mr. Cass to Lord Napier.)

DEPARTMENT OF STATE,

WASHINGTON, November 8, 1858.

MY LORD: I have had the honor to receive the copy which your lordship did me the favor to send me of Lord Malmesbury's dispatch to your lordship of August 18, in reference to Sir William Ouseley's mission, and have submitted it to the consideration of the President. From the statement of Lord Malmesbury that the British Government has no remaining alternative but that of "leaving the Cabinet of Washington to originate any further overtures for an adjustment of these controversies," it is quite obvious that the position of the President on this subject is not correctly understood by Her Majesty's Government. Since the announcement by your lordship in October, 1857, of Sir William Ouseley's special mission, the President has awaited not so much any new proposition for the adjustment of the Central American questions as the statement in detail which he had been led to expect of the method by which Sir William Ouseley was to carry into effect the previous proposition of the British Government. To make this plain, your lordship will pardon me for making a brief reference to what has occurred between the two governments in respect to Central America since the ratification of the Clayton-Bulwer treaty of 1850.

While the declared object of that convention had reference to the construction of a ship-canal, by the way of San Juan and the lakes of Nicaragua and Managua, from the Atlantic to the Pacific Oceans, yet it avowed none the less plainly a general principle in reference to all practicable communications across the isthmus, and laid down a distinct policy by which the practical operation of this principle was likely to be kept free from all

embarrassment. The principle was that the interoceanic routes should remain under the sovereignty of the states through which they ran, and be neutral and free to all nations alike. The policy was, that in order to prevent any government outside of those states from obtaining undue control or influence over these interoceanic transits, no such nation should "erect or maintain any fortifications commanding the same, or in vicinity thereof, or should occupy or fortify or colonize or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

So far as the United States and Great Britain were concerned, these stipulations were expressed in unmistakable terms, and in reference to other nations it was declared that the contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other. At that time the United States had no possessions whatever in Central America and exercised no dominion there. In respect to this government, therefore, the provisions of the first article of the treaty could operate only as a restriction for the future, but Great Britain was in the actual exercise of dominion over nearly the whole eastern coast of that country, and in relation to her this article had a present as well as a prospective operation. She was to abandon the occupancy which she had already had in Central America, and was neither to make acquisitions or erect fortifications or exercise dominion there in the future. In other words, she was to place herself in the same position, with respect to possessions and dominion in Central America, which was to be occupied by the United States, and which both the contracting parties to the treaty engaged that they would endeavor to induce other nations to occupy. This was the treaty as it was understood and assented to by the United States, and this is the treaty as it is still understood by this government. Instead, however, of giving effect to it in this sense, the British Government proceeded in 1851, only a few months after the signature of the treaty, to establish a new British colony in Central America under the name of the "Bay Islands"; and when this government expressed its great surprise at this proceeding and at the failure of Great Britain to comply with the terms of the convention, Her Majesty's Government replied that the Islands already belonged to Great Britain at the date of the treaty, and that the convention, in their view of it, interfered with none of their existing possessions in

Central America, but was wholly prospective in its character and only prevented them from making new acquisitions. It is unnecessary to do more than simply refer to the earnest and able discussions which followed this avowal, and which show more and more plainly the opposite constructions which were placed upon the treaty by the two governments.

In 1854 it was sought to reconcile these constructions and to terminate the Central American questions by the convention which was signed at London by the American minister and Lord Clarendon, usually designated the Dallas-Clarendon treaty. The terms of this treaty are, doubtless, familiar to your lordship.

It provides—

1. For the withdrawal of the British protectorate over the Mosquito Indians, and for an arrangement in their behalf upon principles which were quite acceptable to the United States.

2. It regulated the boundaries of the Belize settlements within which Great Britain claimed to exercise certain possessory rights upon terms which, although not wholly acceptable to this government, were yet in a spirit of generous concession ratified by the United States Senate.

3. It provided for a cession of the Bay Islands to Honduras (in the opinion of this government their rightful proprietor), but this concession was made dependent upon an unratified treaty between Great Britain and Honduras, whose terms were not officially known to this government, but which, so far as they had unofficially appeared, were not of a satisfactory character.

The Senate, therefore, in ratifying the Dallas-Clarendon treaty, felt obliged to amend it by striking out all that part of it which contemplated the concurrence of this government in the treaty with Honduras, and simply providing for a recognition by the two governments of the sovereign right of Honduras to the islands in question. Great Britain found itself unable to concur in this amendment, and the Dallas-Clarendon treaty, therefore, fell to the ground. It was clear, however, that the objections of the Senate to the Honduras treaty were not deemed unreasonable by Her Majesty's Government, because, in your lordship's interview with the President on the 22d October, 1857, your lordship "allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary." "I had observed," you added, "the same impression in the correspondence of Mr. Wyke, Her Majesty's chargé d'affaires at Guatemala, who seemed to admit that

a greater participation in the internal government might be granted to the authorities of Honduras," and you made "no doubt that Her Majesty's Government would entertain any reasonable suggestions which might be offered to them in that sense."

And again, in your lordship's note to this department of November 30, 1857, you recognize the same probability "that the intervention of the Honduras Government in the administration of the islands may have been more limited than was necessary or even advisable."

Such was doubtless the opinion of Honduras, for as long ago as May 10, 1857, I was informed by your lordship that the treaty remained unratified "owing to some objection on the part of the government of Honduras," and that "Her Majesty's Government does not expect that the treaty in its present shape will be definitely sanctioned by that republic."

In view of the objectionable provisions of this convention with Honduras, and of its failure to be sanctioned by that republic, your lordship, by the authority of Lord Clarendon, informed me on the 6th of May, 1857, that Her Majesty's Government was prepared to sanction a new treaty, in respect to the Central American questions, which should in all respects conform to the Dallas-Clarendon treaty, as ratified by the Senate, except that to the simple recognition in the Senate's substitute for the second separate article of the sovereignty of Honduras over the Bay Islands there was to be added the following passage: "Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain by which Great Britain shall have ceded and the Republic of Honduras shall have accepted the said islands subject to the provisions and conditions contained in said treaty." While this condition contemplated a new treaty with Honduras which might possibly avoid the objectionable provisions of the old one, yet it was quite impossible for the United States to become a party, either directly or indirectly, to a convention which was not in existence, or whose terms and conditions it could neither know nor control. For this reason I informed your lordship in my communication of May 29 that your lordship's proposition was declined by this government.

The attempts to adjust the Central American questions by means of a supplementary treaty having thus failed of success, and the subject not being of a character, in the opinion of the United States, to admit of their reference to arbitration, the two governments were thrown back upon their respective rights under the

Clayton Bulwer treaty. While each government, however, had continued to insist upon its own construction of this treaty, there was reason to believe that the embarrassments growing out of their conflicting views of its provisions might be practically relieved by direct negotiations between Her Majesty's Government and the states of Central America.

In this way it seemed possible that, without any injustice to those states, the treaty might be rendered acceptable to both countries as well as operative for the disinterested and useful purposes which it had been designed to serve. The President, therefore, was glad to learn from your lordship, on the 19th of October, 1857, that Her Majesty's Government had "resolved to dispatch a representative of authority and experience to Central America, to make a definitive settlement of all the matters with regard to which the United States and England were still at variance, and who would be instructed," as your lordship believed, "to carry the Clayton Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiation with the Central American republics in lieu of a direct engagement with the Federal Government." This announcement could not fail to be received with satisfaction by the President, because it contemplated the substantial accomplishment of the very purposes in respect to the treaty with the United States had always had in view, and so long as these were accomplished he assured your lordship that "to him it was indifferent whether the concession contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States or to treaties between the former and the Central American republics; the latter method might, in some respects," he added, "be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party."

It is unnecessary to refer at length to what was said in this conversation, or to a second one on the same subject which your lordship had with the President on the evening of October 23; but there can be no doubt that in both interviews the expected mission of Sir William Ouseley (who it was understood had been selected as the plenipotentiary referred to), in connection with what your lordship indicated as his probable instructions, was favorably regarded by the President. So much was this the case, that he gave your lordship his full assurance that should your lordship's an-

nouncement be confirmed by any official information such as he could use, he would change that part of his message which related to Great Britain, would encourage no attempt in Congress to annul the treaty while the mission was in progress, and nothing would give him greater pleasure, he said, "than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries "

At the close of the second interview, he even went so far as to remark, in reference to the extended boundary claimed by Great Britain for the Belize (to which he had ever objected), that he could take no absolute engagement in this matter; but he would say this much, "that if the Bay Islands were fairly and handsomely evacuated, such a measure would have a great effect with him, and with the American people, in regard to the settlement of the other points at issue."

Sir William Ouseley arrived in Washington about the middle of November, and on the 30th of November I received from your lordship an official statement in outline of the purposes of his mission.

On the 5th December, your lordship inclosed to me a copy of Lord Clarendon's dispatch of November 20, in which your lordship's previous statement was substantially confirmed, and in which it was further stated that "Sir William Ouseley, during his visit to Washington, will, in pursuance of his instructions, have explained with the utmost frankness to the Government of the United States the nature of the instructions with which he is furnished, and your lordship, as the duly accredited organ of Her Majesty's Government, will have given similar explanations."

The objects of Sir William Ouseley's mission, as thus made known to the United States, were :

1. To provide for the transfer by Great Britain of the Bay Islands to the Government of Honduras; and in this transfer it was especially declared that the stipulations in the British treaty with Honduras were not to be rigidly adhered to. Sir William Ouseley, on the contrary, while requiring provisions to secure the vested rights of British subjects in the Bay Islands, was to be left at liberty to contract engagements with Honduras which should embody not only an unmistakable recognition of its sovereignty over these islands, but should allow of a more direct government and a more efficient protection over them by that republic than had been contained in the convention of 1856.

2. The second object of Sir William Ouseley's mission was the settlement of the question of the Mosquito protectorate with Nicaragua and Honduras. Whilst he was to provide for the compensation, the government, and the protection of the Mosquito Indians under the sovereignty of Nicaragua, this was to be done upon terms not less favorable than those which had received the approbation of the Senate in the Dallas-Clarendon treaty. In no degree was the Indian reserve to trespass on the territory applicable to transit purposes.

3. The regulation of the frontier of British Honduras was to be effected by negotiation with the Government of Guatemala. Her Majesty's Government trusted to obtain from that republic a recognition of limits "which, if we may judge from previous communications on the subject, may be accepted in a spirit of conciliation, if not with absolute approval, by the President."

Such were the overtures communicated by your lordship's note to this Department of November 30, and which were again referred to in Lord Clarendon's note to your lordship of November 20, of which you inclosed to me a copy in your lordship's note of December 5. Inasmuch as the announcement of Sir William Ouseley's mission, with the explanation by your lordship of its general purposes, had been received with much satisfaction by the President, there were some expressions in this note of Lord Clarendon's which it was not easy to understand; but which, nevertheless, did not materially change the general character of the overtures. It was still stated in that dispatch "that the objections entertained in the United States to the construction placed upon that treaty by the British Government are, as every impartial person must admit, in a fair way to be removed by the voluntary act of the latter; and while the objects of Sir William's mission continued to be mentioned in only general terms, it was yet added that during his visit to Washington he will, in pursuance of his instructions, have explained with the utmost frankness the nature of the instructions with which he is furnished, and your lordship, as the duly accredited organ of Her Majesty in the United States, will have given similar explanations."

The President did not hesitate, therefore, in his message to Congress, to refer to these overtures as having recently been made by the British Government in a friendly spirit, which he cordially reciprocated. He could do no more than this, whatever might be his hopes for the success of Sir William's mission, until he had received the further explanations concerning it which he had been

led to expect, and which he was prepared to consider in the kindest and most respectful manner. The general remarks contained in the outline of November 30th must have been molded into some specific form, in order to enable this government to arrive at a practical decision upon the questions presented to it. This I understood to be the view of your lordship and Sir William Ouseley, as well as that of the President and this Department. Indeed, it was wholly in conformity with this view that Sir William Ouseley was understood to have called at Washington on his way to Central America. Had he proceeded directly to his destination, and there, by separate treaties with the Central American republics, given substantial effect to the Clayton-Bulwer convention, according to the general tenor of the American construction of that instrument, the Central American controversy would then have been fortunately terminated to the satisfaction of both governments. But since this government, in a spirit of comity, which the President fully appreciates, was asked to co-operate in accomplishing this result, it was surely not unreasonable that it should know specifically the arrangements which it was expected to sanction.

The general objects in view, we were acquainted with and approved, but there was no draft of a treaty, no form of separate article, no definition of measures. The Bay Islands were to be surrendered, but under what restrictions? The Dallas-Clarendon treaty was to be modified, but what were the modifications? The rights of British subjects and the interests of British trade were to be protected in Ruatan, but to what extent and by what conditions? Honduras was to participate more largely in the government of the Bay Islands than she was allowed to do by the convention of 1856, but how far was she to be restrained and what was to be her power?

These and other similar questions naturally arose upon the general overtures contained in your lordship's note of November 30, and seemed naturally enough to justify the hope which was entertained of some further explanation of these overtures. In all my conversations with your lordship on the subject of Sir William's mission, subsequent to the meeting of Congress, this expectation of some further and more definite communication concerning it was certainly taken for granted, and until time was given to receive such a communication, you did not press for any answer to your lordship's note of November 30. In the beginning your lordship seemed to think that some embarrassment or delay in prosecuting the mission might be occasioned by the expedition to Nicaragua, which had

been undertaken by General Walker, and by the Cass-Yrisarri treaty which had been negotiated with that republic by the United States; but the treaty was not disapproved by Her Majesty's Government and the expedition of Walker was promptly repressed, so that no embarrassment from these sources could be further apprehended. As the delay still continued, it was suggested by your lordship, and fully appreciated by me, that Her Majesty's Government was necessarily occupied with the affairs of Her Majesty's possessions in India, which then claimed its immediate attention to the exclusion naturally of business which was less pressing, and hence I awaited the expected instructions without any anxiety whatever. All this is precisely what your lordship very frankly describes in your lordship's communication to this Department of April 12, 1858. "I addressed my government," your lordship says, "with a view to obtaining further explanations and instructions, and I informed you that it was not my desire to press for an official reply to the overtures of the Earl of Clarendon pending an answer from London."

The explanations, however, anticipated by your lordship and by myself were not received, and about three months after the arrival of Sir William at Washington you expressed to me your regret that you had held out expectations which proved unfounded and which had prompted delay, and then for the first time requested an answer to the proposals of Her Majesty's Government, and "especially to that part of them relating to arbitration." It was even then suggested that the answer was desired because it was thought to be appropriate as a matter of form and not because the explanations which had been waited for were deemed wholly unnecessary. "I overlooked something due to forms," is your lordship's language in the note of April 12, "in my anxiety to promote a clearer understanding, and I eventually learned in an official shape that Her Majesty's Government, following their better judgment, desired, before making any further communication, a reply to their overtures, and especially to that part of them referring to arbitration. Should the new proffer of arbitration be declined, it was clearly not supposed in your note of February 15 that this result would have any tendency to interrupt Sir William's efforts; but in that event it was hoped," you informed me, that these efforts "would result in a settlement agreeable to the United States, inasmuch as in essential points it would carry the treaty of 1850 into operation

in a manner practically conformable to the American interpretation of that instrument."

On the 6th of April I replied to your lordship's note of February 15, with a very frank and full statement of views of this government upon all the points to which your lordship had referred. The renewed offer of arbitration mentioned in a dispatch of Lord Clarendon was explicitly declined for the same reasons which had occasioned its rejection before, but an earnest hope was expressed for the success of Sir William Ouseley's mission, and I was instructed formally to request from your lordship those further explanations concerning it, which had been promised in Lord Clarendon's note of November 20, for which both your lordship and myself had waited for three months in vain, and which, up to this time, have never been furnished to the American Government. The disappointment which the President felt at some portions of the correspondence which had occurred, and especially at the failure of Her Majesty's Government to inform him more fully than it had done, on the subject of the mission, was communicated to your lordship without the least reserve, but in the purposes of that mission, so far as he understood them, I was authorized to say that he fully concurred, and to add his sincere hope that they might be successfully accomplished.

"The President," I informed you, "has expressed his entire concurrence in the proposal for an adjustment of the Central American questions, which was made to him by your lordship last October, and he does not wish that any delay or defeat of that adjustment shall be justly chargeable to this government. Since, however, he is asked to co-operate in the arrangement by which it is expected to accomplish it, it is essential that he should know with reasonable accuracy what those arrangements are." It was in the hope of this adjustment, as well as with a view to the serious consequences which might flow from a naked repeal of the Clayton-Bulwer treaty, that I made the observations on that subject which are contained in my letter to your lordship of April 6. No demand for this abrogation, your lordship is well aware, had then been made by Her Majesty's Government; but your lordship had several times suggested to me that such an alternative, if proposed by the United States, would be respectfully considered by Great Britain, and in your lordship's belief might in some form or other be finally adopted. You informed me, however, at the same time that in that event Great Britain would not be inclined to surrender

its possessions in Central America, and would certainly continue to occupy the Bay Islands. In reply to this announcement, I informed your lordship that since it is well known that the views of this government are wholly inconsistent with these pretensions, and that it can never willingly acquiesce in their maintenance by Great Britain, your lordship will readily perceive what serious consequences might follow a dissolution of the treaty, if no provision should be made at the same time for adjusting the questions which led to it.

"If, therefore," I added, "the President does not hasten to consider now the alternative of repealing the treaty of 1850, it is because he does not wish to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries."

Having thus complied with your lordship's request, and given that formal reply to the overtures embraced in Sir William Ouseley's mission which was desired by Her Majesty's Government, I confidently expected to receive within a reasonable time these additional instructions which appeared to have been delayed for this reply. Such, doubtless, was the hope, also, of your lordship. "The discussion has been deferred," you informed me in your note of April 12, "but the interests at stake have probably not suffered." The results of the negotiation between Nicaragua and the United States are not yet disclosed, and it is probable that Sir William Ouseley may proceed to his destination with more advantage when the nature of those engagements is fully defined." "If the American Cabinet," you also said, "as may be inferred from your expressions, be well disposed toward Sir William Ouseley's mission, and will meet her Majesty's Government in a liberal spirit on matters of secondary moment, that mission may still conduct us to a happy termination." In further informing me that my communication would be transmitted to Her Majesty's Government, you added, "It remains with Her Majesty's Government to determine whether they can afford the more perfect information desired."

This was the state of the negotiation in April, 1858. The purposes of Sir William Ouseley's mission had been announced to the American Government and approved; reference had been made by Lord Clarendon to your lordship and Sir William Ouseley for fur-

ther explanations ; these explanations had been asked for from your lordship in repeated interviews, but your lordship had not received the necessary instructions to make them until a reply had been received to the general overtures embraced in your previous notes, and especially to that part of them relating to arbitration ; this reply had been given, still approving the mission and rejecting the arbitration ; and it had been sent to London for the consideration of Her Majesty's Government.

Under these circumstances, I need not describe to your lordship the surprise with which I received the copy of Lord Malmesbury's dispatch to your lordship, dated at Potsdam, August 18, which you were good enough to inclose to me. In this dispatch, instead of affording any more exact definition of the objects of Sir William Ouseley's mission, your lordship is directed to inform me that Her Majesty's Government " have, in fact, nothing to add to the explanations given by Sir William and your lordship upon the subject." As no explanation whatever had been received from either Sir William or yourself since the communication of November 30, it is obvious that his lordship must labor under some misapprehension on this subject ; and equally clear is it that when his lordship represents me as having declared in my note of the 6th of April that the Government of the United States could not agree to the abrogation of the Clayton-Bulwer treaty, that he has failed to appreciate fully the views of the United States in reference to that abrogation. The declaration in my note of April 6 was certainly not against any abrogation of the treaty, but against considering the expediency of abrogating it at that particular time, and until hopes were at an end for a successful termination of Sir William Ouseley's mission. This waiver of a discussion on the subject of abrogation, in deference to the purposes of that mission, indicated very clearly, it seems to me, how much was expected by this government from Sir William Ouseley's mission. Yet even these efforts Lord Malmesbury seems to regard as having been rejected by the United States, and Her Majesty's Government, he concludes, have no alternative but that of leaving to the Cabinet of Washington to originate any further overtures for an adjustment of these controversies.

Surely, my lord, there must be some grave misapprehension in all this of the views entertained and expressed by this government upon the proposals embraced in your lordship's note of November 30, or else this government has labored under an equally serious error as to what was intended by Sir William Ouseley's mission.

It is under this impression, and in order to prevent two great nations from failing in their attempts to adjust an important controversy from a mere question of form, or a mere misunderstanding of each other's views, that I have entered into this extended narrative. It is of no small consequence, either to the United States or Great Britain, that these Central American controversies between the two countries should be forever closed.

On some points of them, and I have been led to hope on the general policy which ought to apply to the whole Isthmian region, they have reached a common ground of agreement.

The neutrality of the interoceanic routes and their freedom from the superior and controlling influence of any one government, the principles upon which the Mosquito protectorate may be arranged, with justice alike to the sovereignty of Nicaragua and the Indian tribes, the surrender of the Bay Islands under certain stipulations for the benefit of trade and the protection of their British occupants, and the definition of the boundaries of the British Belize—about all these points there is no apparent disagreement except as to the conditions which shall be annexed to the Bay Islands' surrender, and as to the limits which shall be fixed to the settlements of the Belize. Is it possible that, if approached in a spirit of conciliation and good feeling, these two points of difference are not susceptible of a friendly adjustment? To believe this would be to underestimate the importance of the adjustment, and the intelligent appreciation of this importance which must be entertained by both nations.

What the United States want in Central America, next to the happiness of its people, is the security and neutrality of the interoceanic routes which lead through it. This is equally the desire of Great Britain, of France, and of the whole commercial world. If the principles and policy of the Clayton-Bulwer treaty are carried into effect, this object is accomplished. When, therefore, Lord Malmesbury invites new overtures from this government upon the idea that it has rejected the proposal embraced in Sir William Ouseley's mission for an adjustment of the Central American questions by separate treaties with Honduras, Nicaragua, and Guatemala, upon terms substantially according with the general tenor of the American interpretation of the treaty, I have to reply that this very adjustment is all that the President ever desired, and that instead of having rejected that proposal he had expressed his cordial acceptance of it so far as he understood it, and had anticipated from it the most gratifying consequences.

Nothing now remains for me but to inquire of your lordship whether the overtures contained in your lordship's note of November 30, are to be considered as withdrawn by Her Majesty's Government, or whether the good results expected in the beginning from Sir William Ouseley's mission may not yet be happily accomplished.

I have, &c.,

LEWIS CASS.

[*The above letter appears:*

I. As Document 9, Inclosure 2, in Special Message of the President, 8th March, 1880, pp. 113-119.

II. As Document 57, in Special Message of President, 29th July, 1882, pp. 137-146.]

35th Congress, 2d Session.
House Ex. Doc. No. 2.
Part 1, In Vol. 2.

6th December, 1858.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

It is my earnest desire that every misunderstanding with the Government of Great Britain should be amicably and speedily adjusted. It has been the misfortune of both countries, almost ever since the period of the Revolution, to have been annoyed by a succession of irritating and dangerous questions, threatening their friendly relations. This has partially prevented the full development of those feelings of mutual friendship between the people of the two countries so natural in themselves and so conducive to their common interest. Any serious interruption of the commerce between the United States and Great Britain would be equally injurious to both. In fact, no two nations have ever existed on the face of the earth which could do each other so much good or so much harm.

* * * * *

I am truly sorry I can not also inform you that the complications between Great Britain and the United States arising out of the Clayton and Bulwer treaty of April, 1850, have been finally adjusted.

At the commencement of your last session I had reason to hope that, emancipating themselves from further unavailing discussions, the two governments would proceed to settle the Central American questions in a practical manner, alike honorable and satisfactory to both ; and

this hope I have not yet abandoned. In my last annual message I stated that overtures had been made by the British Government for this purpose in a friendly spirit, which I cordially reciprocated. Their proposal was to withdraw these questions from direct negotiations between the two governments, but to accomplish the same object by a negotiation between the British Government and each of the Central American Republics whose territorial interests are immediately involved. The settlement was to be made in accordance with the general tenor of the interpretation placed upon the Clayton and Bulwer treaty by the United States with certain modifications. As negotiations are still pending upon this basis, it would not be proper for me now to communicate their present conditions. A final settlement of these questions is greatly to be desired, as this would wipe out the last remaining subject of dispute between the two countries.

* * * * *

JAMES BUCHANAN.

WASHINGTON, December 6, 1858.

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

8th December, 1858.

(Lord Malmesbury to Lord Napier.)

[*Extract.*]

FOREIGN OFFICE, December 8, 1858.

MY LORD: I have to inform your lordship that Her Majesty's Government have received with lively satisfaction the note which General Cass addressed to your lordship on the 8th of November. The friendly tone in which it is written, and the high appreciation which it displays of the importance of terminating the irritating discussions in which both our countries have been so long involved, cannot but tend to render that termination near at hand and permanent. I feel it to be a duty to do justice to the accuracy with which General Cass has recapitulated the circumstances under which the controversy has been sustained, and the efforts hitherto employed to settle it have failed.

* * * * *

I am, &c.,

MALMESBURY.

[*The above letter appears as Document 58, in Special Message of President, 29th July, 1882, p. 146.*]

35th Congress, 1st Session.
Senate Ex. Doc. 1, Part 2, p. 1293.
In Vol. 3.

1858.

(Report of N. Michler of survey of Isthmus of Darien, with correspondence
relating thereto.)

53d Congress, 2d Session.
House Mis. Doc., Vol. 37.
Messages of Presidents.
Vol. V, p. 538.

18th February, 1859.

(Special Message of the President of the United States.)

WASHINGTON, February 18, 1859.

TO THE SENATE AND HOUSE OF REPRESENTATIVES :

The brief period which remains of your present session and the great urgency and importance of legislative action before its termination for the protection of American citizens and their property whilst in transit across the isthmus routes between our Atlantic and Pacific possessions render it my duty again to recall this subject to your notice. I have heretofore presented it in my annual message both in December, 1857, and 1858, to which I beg leave to refer. In the latter I state that

The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks. It would have no authority to enter the Territory of Nicaragua even to prevent the destruction of the transit and protect the lives and property of our own citizens on their passage. It is true that on a sudden emergency of this character the President would direct any armed force in the vicinity to march to their relief, but in doing this he would act upon his own responsibility.

Under these circumstances I earnestly recommend to Congress the passage of an act authorizing the President, under such restrictions as they may deem proper, to employ the land and naval forces of the United States in preventing the transit from being obstructed or closed by lawless violence and in protecting the lives and property of American citizens traveling thereupon, requiring at the same time that these forces shall be withdrawn the moment the danger shall have passed away. Without such a provision our citizens will be constantly exposed to interruption in their progress and to lawless violence.

A similar necessity exists for the passage of such an act for the protection of the Panama and Tehuantepec routes.

Another subject, equally important, commanded the attention of the Senate at the last session of Congress.

The republics south of the United States on this continent have, unfortunately, been frequently in a state of revolution and civil war ever since they achieved their independence. As one or the other party has prevailed and obtained possession of the ports open to foreign commerce, they have seized and confiscated American vessels and their cargoes in an arbitrary and lawless manner and exacted money from American citizens by forced loans and other violent proceedings to enable them to carry on hostilities. The executive governments of Great Britain, France, and other countries, possessing the war-making power, can promptly employ the necessary means to enforce immediate redress for similar outrages upon their subjects. Not so the executive government of the United States.

If the President orders a vessel of war to any of these ports to demand prompt redress for outrages committed, the offending parties are well aware that in case of refusal the commander can do no more than remonstrate. He can resort to no hostile act. The question must then be referred to diplomacy, and in many cases adequate redress can never be obtained. Thus American citizens are deprived of the same protection under the flag of their country which the subjects of other nations enjoy. The remedy for this state of things can only be supplied by Congress, since the Constitution has confided to that body alone the power to make war. Without the authority of Congress the Executive cannot lawfully direct any force, however near it may be to the scene of difficulty, to enter the territory of Mexico, Nicaragua, or New Granada for the purpose of defending the persons and property of American citizens, even though they may be violently assailed whilst passing in peaceful transit over the Tehuantepec, Nicaragua, or Panama routes. He can not, without transcending his constitutional power, direct a gun to be fired into a port or land a seaman or marine to protect the lives of our countrymen on shore or to obtain redress for a recent outrage on their property. The banditti which infest our neighboring Republic of Mexico always claiming to belong to one or other of the hostile parties, might make a sudden descent on Vera Cruz or on the Tehuantepec route, and he would have no power to employ the force on shipboard in the vicinity for their relief, either to prevent the plunder of our merchants or the destruction of the transit.

In reference to countries where the local authorities are strong enough to enforce the laws, the difficulty here indicated can seldom happen; but where this is not the case and the local authorities do not possess the physical power, even if they possess the will, to protect our citizens within their limits recent experience has shown that the American Executive should itself be authorized to render this protection. Such a grant of authority, thus limited in its extent, could in no just sense be regarded as a transfer of the war-making power to the Executive, but only as an appropriate exercise of that power by the body to whom it exclusively belongs. The riot at Panama in 1856, in which a great number of our citizens lost their lives, furnishes a pointed illustration of the necessity which may arise for the exertion of this authority.

I therefore earnestly recommend to Congress, on whom the responsibility exclusively rests, to pass a law before their adjournment conferring on the President the power to protect the lives and property of American citizens in the cases which I have indicated, under such restrictions and conditions as they may deem advisable. The knowledge that such a law exists would of itself go far to prevent the outrages which it is intended to redress and to render the employment of force unnecessary.

Without this the President may be placed in a painful position before the meeting of the next Congress. In the present disturbed condition of Mexico and one or more of the other Republics south of us, no person can foresee what occurrences may take place before that period. In case of emergency, our citizens, seeing that they do not enjoy the same protection with subjects of European Governments, will have just cause to complain. On the other hand, should the Executive interpose, and especially should the result prove disastrous and valuable lives be lost, he might subject himself to severe censure for having assumed a power not confided to him by the Constitution. It is to guard this contingency that I now appeal to Congress.

Having thus recommended to Congress a measure which I deem necessary and expedient for the interest and honor of the country, I leave the whole subject to their wisdom and discretion.

JAMES BUCHANAN.

I assured General Cass that I made no doubt Her Majesty's Government would continue to give the Government of President Martinez the advise, which had been already more than once offered, viz., to make all the concessions in their relations with the United States which are now desired, and which cannot appear unreasonable; for all the modifications in the Cass-Yrisarri treaty embodied in Sir William Ouseley's convention are acceded to here, except the addition to Article XXII., which could not possibly be entertained by this Government.

I have, &c.,

NAPIER.

[INCLOSURE.]

(Extract from Article XX. of the English Treaty with Nicaragua.)

[*Translation.*]

Her Britannic Majesty will prohibit and prevent the formation of armed expeditions in her dominions, either for the invasion of Nicaragua or with the intention or under the pretext of assisting the parties or political bodies which may exist in that country.

[*The above letter and inclosure appear as Document 9, Inclosure 7, in Special Message of President, 8th March, 1880, p. 125.*]

British State Papers.
1859-1860, p. 209.

30th April, 1859.

(The Earl of Malmesbury to Sir W. G. Ouseley.)

[No. 175.]

FOREIGN OFFICE, April 30, 1859.

SIR: I have to state to you that Mr. Dallas called at the foreign office yesterday, in order to read to me a dispatch which he had received from General Cass, expressing the uneasiness with which the Government of the United States regarded the progress of your negotiations with Nicaragua; those negotiations having up to the last dates from Central America, left untouched the question of the surrender of the Mosquito protectorate, while they had resulted in the conclusion of a commercial treaty which had been ratified by Nicaragua, although the Republic had refused to ratify the commercial treaty which it had concluded a year previously with the United States. General Cass also observes, upon the objectionable nature of the clause ~~which you had agreed concerning~~

armed expeditions, and says that addition is made by Nicaragua the occasion for defeating the Cass-Yrisarri treaty.

I informed Mr. Dallas in reply that Her Majesty's Government had already expressed to you their regret that you should have proceeded to negotiate the commercial treaty with Nicaragua in apparent disregard of that which is by far the more important of the two, viz., the treaty for the surrender of the Mosquito protectorate, and that Her Majesty's Government had informed you that Her Majesty would not be advised to ratify the one without the other also.

I further informed Mr. Dallas that Her Majesty's Government had rejected the clause to which you had agreed on the subject of armed expeditions, which they, equally with the Government of the United States, regarded as in the highest degree objectionable.

I have now to urge upon you in the strongest manner the necessity of your bringing these negotiations to a conclusion in exact conformity with your instructions. Her Majesty's Government deprecate the delay which has already taken place, and they desire that you will make every effort to conclude the treaties, and to bring them home with you.

I am, &c.,

MALMESBURY.

[*The above appears as Document 9, Inclosure 8, in Special Message of President, 8th March, 1880, p. 126.*]

47th Congress, 1st Session,
Senate Ex. Doc. No. 194.
In Vol. 6.

30th April, 1859.

(Convention between Great Britain and Guatemala. Signed at Guatemala, April 30, 1859.)

Whereas, the boundary between Her Britannic Majesty's settlement and possessions in the Bay of Honduras and the territories of the Republic of Guatemala have not yet been ascertained and marked out; Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Guatemala, being desirous, with a view to improve and perpetuate the friendly relations which happily subsist between the two countries, to define the boundary aforesaid, have resolved to conclude a convention for that purpose, and have named as their plenipotentiaries, that is to say:

Her Majesty, the Queen of the United Kingdom of Great Britain

ART. VI. It is further agreed that the channels in the water-line of boundary described in Article I. of the present convention shall be equally free and open to the vessels and boats of both parties, and that any islands which may be found therein shall belong to that party on whose side of the main navigable channel they are situated.

ART. VII. With the object of practically carrying out the views set forth in the preamble of the present convention for improving and perpetuating the friendly relations which at present so happily exist between the two High Contracting Parties, they mutually agree conjointly to use their best efforts, by taking adequate means for establishing the easiest communication (either by means of a cart-road or employing the rivers, or both united, according to the opinion of the surveying engineers) between the fittest place on the Atlantic coast, near the settlement of Belize and the capital of Guatemala, whereby the commerce of England on the one hand, and the material prosperity of the Republic on the other, cannot fail to be sensibly increased, at the same time that the limits of the two countries being now clearly defined, all further encroachments by either party on the territory of the other will be effectually checked and prevented for the future.

ART. VIII. The present convention shall be ratified, and the ratifications shall be exchanged at London or Guatemala as soon as possible within the space of 6 months.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Guatemala, the 30th day of April, in the year 1859.

1859
1859

CHARLES LENNOX WYKE.
P DE AYCINENA.

The above convention signed by the plenipotentiaries of the two High Contracting Parties, and the ratifications thereof, were deposited at the British Legation at Guatemala, on the 1st day of May, 1859.

*British State Papers.
1859, 1860, p. 228.*

1859, 1860, p. 228.

Lord Lyons to the Earl of Halmesbury.

No. 100.

1859, 1860, p. 228.

*Received, May 12, 1859.
1859, 1860, p. 228.*

the course pursued by Her Majesty's Government in regard to the treaty signed by Sir William Gore Ouseley with the Government of Nicaragua on the 18th January last.

I pointed out to General Cass that Sir William Ouseley had consented to various modifications of the terms which he had been directed to propose to Nicaragua. Of these modifications, there were, I said, several which Her Majesty's Government could not approve; and among those disapproved was the clause concerning what were commonly called "filibustering" expeditions, which had been added to Article XXII. This clause Her Majesty's Government considered as both unnecessary and undignified.

I proceeded to inform General Cass that in admitting the modifications in question, Sir William Ouseley had acted entirely on his own responsibility, for he had been furnished by Her Majesty's Government with drafts of the treaties to be concluded, and had been instructed not to assent to any alterations which were not of a purely formal and immaterial character.

Her Majesty's Government had, I went on to say, promptly refused to ratify the treaty as signed by Sir William Ouseley, and had instructed him to sign a new treaty, omitting the clauses objected to by Her Majesty's Government. Sir William Ouseley had, moreover, been repeatedly directed distinctly to inform the Government of Nicaragua that Her Majesty's Government regarded the object of his mission, that is, the conclusion of the treaty of commerce, and of the treaty respecting the Mosquito protectorate, as a whole and that one treaty would not be ratified without the other.

I had a fortnight previously been enabled, by information afforded me by your lordship's dispatch of the 30th of March last, to explain to General Cass the sentiments of Her Majesty's Government in regard to these matters. Nevertheless, General Cass appeared to receive, with very remarkable satisfaction, the more formal and definitive communication, which in execution of your lordship's orders, I made to him yesterday. He said very emphatically that the course pursued by Her Majesty's Government was most honorable, and that the President would be extremely gratified by my communication.

With respect to the recent treaty between the United States and Nicaragua, General Cass said that, upon examination, it did not appear to be all that could be wished; still, the President was pre-

pared to accept the whole of it with the single exception of the clause concerning filibustering expeditions.

LYONS.

[*The above appears as Document 9, Inclosure 9, in Special Message of President, 8th March, 1880, p. 127.*]

British State Papers.
1859-1860, p. 242.

30th May, 1859.

(Lord Lyons to the Earl of Malmesbury.)

[No. 207.]

WASHINGTON, May 30, 1859.

I perceive by your lordship's dispatch to Sir William Ouseley of the 9th instant, of which you did me the honor to send me a copy in your dispatch of the 11th instant, that Sir William is directed to bring the treaty with Nicaragua respecting Mosquito to an immediate conclusion; and, as soon as that treaty and the general treaty with the same State are signed and ratified, to return at once to England.

The frank and full explanation which your lordship enabled me to give respecting the delay in the conclusion of the treaty for the abandonment of the Mosquito Protectorate were most acceptable to the President, and produced a very remarkable effect on the tone of the public press. With a view to keep up the good feeling which has happily since prevailed, it would be very desirable that, before the intended departure of Sir William Ouseley becomes generally known in this country, I should be able to state distinctly the intentions of her Majesty's Government with respect to the treaty which remains to be negotiated with Honduras, in order to complete the settlement of the Central American questions.

It will be in your lordship's recollection that in the dispatch to Lord Napier dated the 18th of December last, of which he gave by your lordship's order a copy to General Cass, it was stated that her Majesty's Government intended to confide the negotiation of that treaty to Sir William Ouseley; and that so soon as Sir William should have concluded the negotiations in which he was then employed Lord Napier would immediately be enabled to state to General Cass the details of his second mission, and the conditions with Honduras on which the cession of the Bay Islands to that State was contemplated.

Your lordship may perhaps deem it expedient that I should be directed to give at once some explanations in order to prevent unfounded imputations upon the good faith of her Majesty's Government if the news of Sir William Ouseley's departure for England should not be accompanied by some definite declaration respecting the negotiations with Honduras.

LYONS.

[*The above appears as Document 9, Inclosure 11, in Special Message of President, 8th March, 1880, p. 128.*]

British State Papers.
1859-60, p. 241.

30th May, 1859.

(Lord Lyons to the Earl of Malmesbury.)

WASHINGTON, May 30, 1859.

(Received June 12th.)

MY LORD: On the 25th and 26th instants I had some conversation with General Cass respecting the affairs of Nicaragua. General Cass told me that General Jerez, the Nicaraguan minister to the United States, was to return home on the 15th of next month, and that he had requested to be informed definitely, before his departure, of the intentions of the President with respect to the treaty recently negotiated by General Lamar.

General Cass told me that he would state to General Jerez, in general terms, that the President accepted the whole treaty, with the exception of the clause directed against what are commonly termed "filibustering expeditions." That clause the Government of the United States absolutely rejected.

There was, however, General Cass said, a reservation which he would have to make. He had observed in Article XXII. of the treaty signed by Sir William Ouseley, a clause which did not exist either in the draft with which Sir William Ouseley was furnished by her Majesty's Government or in General Lamar's treaty. The clause to which he referred stated that, in case of imminent danger to the lives and properties of British subjects, Her Majesty's forces might act for their protection without obtaining the previous consent of the Nicaraguan authorities. If this clause should be maintained in the new treaty which Sir William Ouseley had been directed to sign, the United States would insist upon the same privilege being secured to them; in fact, they would require to be placed upon a

perfect equality with Great Britain in this respect. General Jerez would be authorized to inform his government upon this point being settled and the "filibustering" clause struck out, the President would send the treaty to the United States Senate for ratification.

I saw General Jerez himself the day before yesterday. He confirmed the account given above of the intentions of the United States Government; and he told me further that he hoped that, by negotiation with the American companies holding contracts for construction of the interoceanic route, he should be able, before his departure to effect a compromise which would satisfy both the companies themselves and the Government of the United States.

I have, &c.,

LYONS.

[The above appears as Document 9, Inclosure 10, in Special Message of President, 8th March, 1880, p. 127.]

British State Papers.
1859-1860, p. 245.

16th June, 1859.

(The Earl of Malmesbury to Lord Lyons.)

[No. 211.]

FOREIGN OFFICE, June 16, 1859.

MY LORD: With reference to your lordship's dispatch of the 30th ultimo, I have to observe that Sir William Ouseley's health having suffered from the climate of Nicaragua, Her Majesty's Government did not consider it desirable that his stay in Central America should be prolonged, and that they consequently instructed him to return home so soon as he should have concluded the treaties which he had been charged to negotiate with the republics of Nicaragua and Costa Rica. They, at the same time, however, sent to Mr. Wyke full powers to conclude a treaty with Gautemala, defining the limits between that state and the settlement of Belize, and they subsequently informed Mr. Wyke, in a dispatch of which a copy is enclosed, that it was their intention to confide to him the negotiation of the other pending conventions with the States of Central America.

Her Majesty's Government have learned by the West India mail which has just arrived that Mr. Wyke has concluded the treaty with Gautemala respecting British Honduras, but the state of his health having obliged him to avail himself, as you will see by the inclosed dispatch, of the permission which he had previously received to re-

turn home, some little delay must, much to the regret of Her Majesty's Government, take place before the further negotiations to which I have adverted can be carried through.

I am, &c.,

MALMESBURY.

[*The above appears as Document 9, Inclosure 12, in Special Message of President, 8th March, 1880, p. 128.*]

British State Papers.
1859-1860, p. 249.

5th July, 1859.

(Lord Lyons to the Earl of Malmesbury.)

[No. 219.] WASHINGTON, July 5th, 1859. (Received, July 18.)

MY LORD: Since I wrote my immediately preceding dispatch of this date relative to the negotiations in Central America, I have had a few minutes conversation with General Cass.

The General told me that the United States plenipotentiary in Central America, General Lamar, was about to return home, and that it was not the intention of the President to accredit a diplomatic agent to Nicaragua until the government of that Republic should remove from the treaty which they have signed with General Lamar the clause concerning "filibustering" expeditions, and ratify the remainder of the treaty.

General Cass then asked me how the British negotiations were going on. I said that Sir William Ouseley was, by your lordship's orders, urging in the strongest manner upon the Government of Nicaragua the adoption of the terms proposed by Her Majesty's Government for the abandonment of the Mosquito Protectorate; and that Mr. Wyke had already concluded with Guatemala a convention determining the boundary of the settlement of Belize. I added that Sir William Ouseley was very anxious that I should convince the Government of the United States that the delays which had so unfortunately occurred respecting the abandonment of the Mosquito Protectorate were in no degree attributable to him. I observed that Sir William had sent me ample information on this point, but that, as I was aware that General Cass was very busy, I would not take up his time by entering into details at the moment. I had, I said, already been able to write to Sir William Ouseley to tell him that the General had, on more than one occasion, said to me that he did not consider that it was Her Majesty's plenipoten-

tiary who was to blame for the delays. General Cass then said that neither British nor American plenipotentiaries could do anything with the Nicaraguans, who did not understand their own interests.

The General proceeded to ask me what had been done respecting the cession of the Bay Islands to Honduras.

I replied that it had been the intention of Her Majesty's Government to confide the negotiation on that matter to Mr. Wyke, Her Majesty's chargé d'affaires at Guatemala, and that instructions to that effect had been sent to him by your lordship. Mr. Wyke had, however, unfortunately been compelled by ill health to quit his post, and was already on his way to England when your lordship's orders reached him. This might, I said, much to the regret of Her Majesty's Government, cause some little delay in the prosecution of the negotiation.

General Cass, without making any comment upon this explanation, passed on to another subject.

I have, &c.,

LYONS.

[*The above appears as Document 9, Inclosure 13, in Special Message of President, 8th March, 1880, p. 129.*]

British State Papers.
1859-1860, p. 267.

15th August, 1859.

(Lord J. Russell to Mr. Wyke.)

[*Extract.*]

[No. 227.]

FOREIGN OFFICE, August 15, 1859.

In order to convey to you the instructions of Her Majesty's Government for your guidance in the negotiation which you are to undertake with the Government of Nicaragua, it is necessary that I should explain what has already been done, with a view to the settlement of the question in discussion with that Republic.

When Sir William Gore Ouseley proceeded from the United States to Central America at the end of October last, he was furnished with drafts of three treaties to propose to the Government of Nicaragua:

1. A treaty of friendship, commerce, and navigation, containing certain articles relative to the interoceanic transit. This draft was founded upon the treaty concluded on the 16th of November, 1857, between the United States and Nicaragua, and commonly called the

Cass-Yrisarri treaty. The commercial articles of the latter were slightly modified, so as to adapt them to our system; the articles relative to the transit were adopted from the American treaty, with very little change, and that purely immaterial.

2. A treaty relative to the Mosquito territory and the claims of British subjects. The arrangements of this draft were taken from the Clarendon-Dallas treaty of October 17, 1856.

3. A convention or agreement respecting post office arrangements.

The last-mentioned convention has been concluded and put in operation, so that it may be dismissed from consideration.

Of the other two drafts, I transmit to you copies, as well as copies of the Clarendon-Dallas treaty, which, as you are aware, was never ratified, and of the articles of the Cass-Yrisarri treaty which relate to the interoceanic transit.

After the arrival of Sir William Gore Ouseley in Nicaragua he communicated to the Nicaraguan Government, first the draft of the treaty of commerce and navigation, and, shortly afterwards, the draft of the treaty respecting the Mosquito territory. He proceeding in the first place with the negotiation of the former treaty, and signed it on the 18th of January last, having, however, admitted into it various alterations of the draft given to him. Some of those alterations were of no great importance, but others which occurred in the articles respecting the interoceanic transit were of very embarrassing nature.

In order to show you clearly what they were, I transmit a printed copy of the draft, with the alterations marked in manuscript, and Sir William Ouseley's reasons for admitting them.

Her Majesty's Government, having taken the treaty into consideration, were of the opinion that some of the alterations of the draft were such as they could not sanction, and the Earl of Malmesbury accordingly informed Sir William Ouseley that the treaty could not be ratified in the form in which he had signed it. His lordship at the same time transmitted to him a draft in which were marked such of the alterations as Her Majesty's Government were prepared to admit, telling him, however, that they considered that treaty and the treaty respecting the Mosquito territory as forming together one and the same arrangement, and that Her Majesty's Government could not ratify one without the other. A copy of the draft in question is also inclosed.

In this position the negotiation of the treaty rests at the present moment, so far as Her Majesty's Government are aware.

The most important and embarrassing alteration of the draft which Sir William Ouseley admitted was the introduction into article XXII of a clause by which Great Britain engaged to discourage and prevent the organization of filibustering expeditions in her territories against those of Nicaragua. It is obvious that this engagement had no real meaning so far as Great Britain and Nicaragua are concerned, except as a simple concession. But the Nicaraguan Government having prevailed upon the British negotiator to consent to its insertion in the British treaty, made that insertion a ground for endeavoring to insert it likewise in the Cass-Yrisarri treaty. The treaty, after great delay and much communication between the Governments of Nicaragua and of the United States, seemed on the point of being ratified, with some slight modifications. The attempt by Nicaragua to introduce at the last moment a new clause which the American Government considered an insult, especially when proposed under the shelter, as it were, of a similar clause introduced without any practical meaning into a treaty between Great Britain and Nicaragua, justly excited the displeasure of the American Government, and has led to the withdrawal of their minister, and the threat of a resort to force if the Cass-Yrisarri treaty be not immediately ratified without the obnoxious clause. The insertion of the clause in the British treaty might, moreover, created an unfriendly feeling on the part of American Government towards Great Britain, had not Her Majesty's Government set themselves right by at once informing the American Government that the clause was added to the treaty without their authority, and was disapproved.

I now turn to the negotiation in regard to the draft of treaty respecting the Mosquito territory. I have already stated that Sir William Gore Ouseley presented the draft of that treaty to the Nicaraguan minister soon after the draft of the treaty of commerce. The latter was negotiated and signed in the first place. The Nicaraguan minister having obtained, by the treaty of commerce, a guarantee of the neutrality of the interoceanic communication, and an engagement obliquely directed against American filibusters, showed no great anxiety to proceed with the second treaty. Sir William Gore Ouseley indeed pressed it upon his attention, but finding that his business made no progress, he resolved upon visiting Costa Rica with the view of completing his negotiations there and afterwards returning to Nicaragua to conclude the Mosquito treaty. After his arrival at San José, he

received an official communication from Senor Zeledon, stating that the Nicaraguan Government had consulted the Senate of the Republic in regard to the draft of treaty, and detailing certain modifications of the draft which the Senate considered necessary ; adding that, if Sir William Gore Ouseley were able to accept them, a plenipotentiary would be appointed to confer with him.

Under these circumstances Sir William Gore Ouseley could do no more than transmit Senor Zeledon's communication to Her Majesty's Government for their consideration. On examining Senor Zeldedon's note, it was found somewhat difficult to form an opinion with regard to it. He had merely described, under a series of heads, the nature of the modifications which his Government desired, but without offering a complete counter-draft of the treaty. Consequently, it was not clear whether the Nicaraguan Government proposed to suppress or to retain such passages of the draft as were not specifically superceded by the particular modifications mentioned in his letter. Sir William Ouseley was therefore informed that so far as Her Majesty's Government understood the scope of Senor Zeledon's modifications, they did not offer any insuperable obstacle to further negotiation, with, however, the exception of two stipulations; one which appeared to supercede the arrangement proposed by our draft for the payment of a pecuniary compensation to the Mosquito King for the abandonment of his interest in the territory which is to be placed under the sovereignty of Nicaragua ; the other, which would have bound Great Britain indefinitely to continue her protection to the Mosquito coast until the conclusion of a joint arrangement between Great Britain and the United States, and Nicaragua, on the principle of the Clayton-Bulwer treaty. Lord Malmesbury informed Sir William Gore Ouseley with reference to this last proposition, that the utmost that Her Majesty's Government could assent to would be to continue the British protection for the period of a year after the signature of the treaty so as to give Nicaragua time to prepare for its defence ; and he was authorized to insert an article to that effect in the treaty.

In this state the negotiation relative to the Mosquito question now remains. But with a view to the conclusion of this embarrassing affair, Her Majesty's Government have remodeled the draft of the treaty in such a manner as to make it conformable to the wishes expressed by the Nicaraguan Senate in all points except the two which relate to the pecuniary compensation to the Mosquito chief,

and the indefinite continuance of the British protectorate. Her Majesty's Government propose that their protectorate shall cease three months after the exchange of the ratifications of the treaty; a period which although not so long as that mentioned by Lord Malmesbury, is in reality not so much shorter as it would appear to be, because in one case the year was to date from the day of signature, and in the other the three months are to date from the exchange of ratifications.

I transmit to you a copy of the new draft, which you are to propose to the Nicaraguan Government.

It is possible that before you reach Nicaragua Sir William Gore Ouseley may have returned thither, and may have concluded one or both of the treaties. If he should have signed the new treaty of commerce and navigation in the terms of the amended draft sent to him in the Earl of Malmesbury's dispatch of the 23d of March last, you will not have occasion to enter upon that part of the question; but if, as is most likely, that treaty remains unsigned when you arrive, you will state to the Nicaraguan Government that you are authorized to sign it in the terms of the amended draft which has been communicated to them by Sir William Gore Ouseley, provided the treaty about the Mosquito territory be signed at the same time.

It is not at all probable, judging from the tenor of Sir William Gore's Ouseley's late dispatches, that he will have concluded the Mosquito treaty. If, however, he should have done so, and the treaty shall have been confirmed by the Nicaraguan Congress, it will be best not to disturb the arrangement; but if the treaty has either not been signed or has been signed and not ratified by the Congress, you will propose the draft with which you are furnished, and which will, doubtless, be more acceptable to the Nicaraguan Government than the treaty which Sir William Ouseley would feel authorized to propose to sign. Even if he should have signed a treaty the new one can be substituted for it.

You will speedily form an opinion as to the success of your mission, and Her Majesty's Government would not wish it to be much prolonged. You will state to the Nicaraguan Government that Her Majesty's Government make this last effort to arrange the Central American question so far as Nicaragua is concerned; that they expect a prompt and frank acceptance of the very favorable terms which they now offer, and that if any hesitation or delay takes place Her Majesty's Mission will be at once withdrawn and Great

Britain will leave the Republic to take the consequences of their infatuation. I trust, however, that the Nicaraguan Government will have sufficient discretion to see the dangerous position in which it would then be placed and the necessity of at once arranging the questions which have been so long pending with this country.

I have only to add that Her Majesty's Government expect that not only should the treaties be properly signed, but that they should be as promptly ratified. If the Nicaraguan Congress be not in session at the time it is not too much to require that in a matter of so much importance a special session should be convoked for the purpose of passing the treaties, so that they may be ratified before your departure. The ratifications might, indeed, be confided to you, with instructions to M. Marcoleta to exchange them at London against those of Her Majesty. You will, however, warn the Government that it will be vain for them to ratify the treaty of commerce without ratifying also the Mosquito treaty, for Her Majesty's Government will not accept the one without the other.

J. RUSSELL.

[*The above letter appears as Document 9, Inclosure 14, in Special Message of President, 8th March, 1880, p. 130.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

22d September, 1859.

(Mr. Cass to Mr. Dimitry.)

[No. 3.]

DEPARTMENT OF STATE,
WASHINGTON, September 22, 1859.

SIR: In the memorandum accompanying the instructions you received, dated the 31st ultimo, a brief review was given of our relations with Great Britain, arising out of the Clayton-Bulwer treaty, and the general course indicated which it was thought expedient you should pursue. At that time we had not been furnished with a copy of the Ouseley-Zeledon treaty, and did not therefore know precisely what terms had been offered by the British plenipotentiary to Nicaragua, though we knew that these were not entirely satisfactory to that Republic, and that much delay had been the consequence, which was accompanied with danger of a failure of the negotiations. Since then we have received from Mr. Runnells, our

consul at San Juan del Sur, a copy of the proposed treaty, which was communicated to him by Mr. Zeledon, with the expression of a wish that the Government of the United States would offer any suggestions to that of Nicaragua in relation to the adjustment of the Mosquito question, intimating at the same time that no definitive action should be taken till our views were received. The specific objections of the British project were not, however, made known to us.

Since your departure the British Government has again given us such assurances as to their desire to terminate these Nicaraguan difficulties by a just and satisfactory arrangement with that Republic, and in conformity with the principles which had been approved by this Government, that I indulge the confident expectation that the present effort will be successful and future difficulties be prevented.

You will express to the minister of foreign affairs our gratification of the confidence exhibited towards the United States, and the assurance that our best efforts shall be devoted to a termination of the existing difficulties between Great Britain and Nicaragua upon terms honorable and just to both parties.

You are at liberty also to submit to Mr. Zeledon a copy of such portions of this letter as you may consider expedient, that the views of the United States may be fully made known to the Nicaraguan Government, and you will embrace all favorable opportunity in conversation of impressing upon the minister of foreign affairs the importance of dealing with this whole subject in a spirit of justice and moderation, and of meeting with corresponding feelings the friendly sentiments avowed by the British Government. It is not less desirable that you should cultivate the best relations with the British minister, and should also explain candidly to him the objects of your Government and the conciliatory course you are pursuing.

When it was found difficult for the Government of the United States and that of Great Britain to conclude a satisfactory treaty for the arrangement of the various subjects growing out of the Clayton-Bulwer treaty, the British Government proposed to make separate treaties with the several states of Central America interested in the adjustment of these matters. To this proposition this Government assented, with the understanding that the terms should, in their general purport, be in conformity with the principles which this Government had approved, and which had been fully discussed between us and the Government of Great Britain.

I have carefully examined the proposed treaty offered by the British minister to Nicaragua, and have compared it with that part of the Dallas-Clarendon treaty which relates to Nicaraguan affairs, and I find that with one or two exceptions, they are substantially the same. The Dallas-Clarendon treaty, in some of its Nicaraguan provisions was modified by the Senate, and in this modified form was submitted for the approbation of the British Government. That approbation was withheld, not on account of the changes made by the Senate in this part of the treaty, but on account of provisions contained in the same instrument, which had relation to the Bay Islands. You will find herewith a copy of the Dallas-Clarendon treaty, and you will find in parallel columns the same with the changes proposed by the Senate.

The British Government assured us that none of these changes were so unacceptable to it as to lead it to refuse its notification, and in May, 1857, Lord Napier presented for joint action the project of a treaty containing precisely those arrangements and stipulations as approved by the Senate. We have a right, therefore, to expect that this modified treaty should now be offered to the Nicaraguan Government instead of the treaty in its original form, as appears to have been proposed by Sir William Ouseley. There is no reason to suppose that the Government of Her Britannic Majesty, having signified their acceptance of the Senate modifications to the Dallas-Clarendon Treaty, in all that relates to Nicaragua and the Mosquito question, will now interpose any objection to the conclusion of a similar convention between their minister in Central America and the Nicaraguan Government. You will communicate these views unreservedly to the Nicaraguan Government, and should the offer made to it be of the character just indicated, as this Government cannot doubt it will be, you will, on the part of the United States, advise that it be promptly accepted. You will, also, make known your course to the British minister in Nicaragua.

I am, &c.,

LEWIS CASS.

[INCLOSURE.]

(Memorandum for Mr. Dimitry, to accompany general instructions of August 31, 1859.)

You are aware that difficulties growing out of the Clayton-Bulwer treaty have arisen between this country and Great Britain.

consul at San Juan del Sur, a copy of the proposed treaty, which was communicated to him by Mr. Zeledon, with the expression of a wish that the Government of the United States would offer any suggestions to that of Nicaragua in relation to the adjustment of the Mosquito question, intimating at the same time that no definitive action should be taken till our views were received. The specific objections of the British project were not, however, made known to us.

Since your departure the British Government has again given us such assurances as to their desire to terminate these Nicaraguan difficulties by a just and satisfactory arrangement with that Republic, and in conformity with the principles which had been approved by this Government, that I indulge the confident expectation that the present effort will be successful and future difficulties be prevented.

You will express to the minister of foreign affairs our gratification of the confidence exhibited towards the United States, and the assurance that our best efforts shall be devoted to a termination of the existing difficulties between Great Britain and Nicaragua upon terms honorable and just to both parties.

You are at liberty also to submit to Mr. Zeledon a copy of such portions of this letter as you may consider expedient, that the views of the United States may be fully made known to the Nicaraguan Government, and you will embrace all favorable opportunity in conversation of impressing upon the minister of foreign affairs the importance of dealing with this whole subject in a spirit of justice and moderation, and of meeting with corresponding feelings the friendly sentiments avowed by the British Government. It is not less desirable that you should cultivate the best relations with the British minister, and should also explain candidly to him the objects of your Government and the conciliatory course you are pursuing.

When it was found difficult for the Government of the United States and that of Great Britain to conclude a satisfactory treaty for the arrangement of the various subjects growing out of the Clayton-Bulwer treaty, the British Government proposed to make separate treaties with the several states of Central America interested in the adjustment of these matters. To this proposition this Government assented, with the understanding that the terms should, in their general purport, be in conformity with the principles which this Government had approved, and which had been fully discussed between us and the Government of Great Britain.

I have carefully examined the proposed treaty offered by the British minister to Nicaragua, and have compared it with that part of the Dallas-Clarendon treaty which relates to Nicaraguan affairs, and I find that with one or two exceptions, they are substantially the same. The Dallas-Clarendon treaty, in some of its Nicaraguan provisions was modified by the Senate, and in this modified form was submitted for the approbation of the British Government. That approbation was withheld, not on account of the changes made by the Senate in this part of the treaty, but on account of provisions contained in the same instrument, which had relation to the Bay Islands. You will find herewith a copy of the Dallas-Clarendon treaty, and you will find in parallel columns the same with the changes proposed by the Senate.

The British Government assured us that none of these changes were so unacceptable to it as to lead it to refuse its notification, and in May, 1857, Lord Napier presented for joint action the project of a treaty containing precisely those arrangements and stipulations as approved by the Senate. We have a right, therefore, to expect that this modified treaty should now be offered to the Nicaraguan Government instead of the treaty in its original form, as appears to have been proposed by Sir William Ouseley. There is no reason to suppose that the Government of Her Britannic Majesty, having signified their acceptance of the Senate modifications to the Dallas-Clarendon Treaty, in all that relates to Nicaragua and the Mosquito question, will now interpose any objection to the conclusion of a similar convention between their minister in Central America and the Nicaraguan Government. You will communicate these views unreservedly to the Nicaraguan Government, and should the offer made to it be of the character just indicated, as this Government cannot doubt it will be, you will, on the part of the United States, advise that it be promptly accepted. You will, also, make known your course to the British minister in Nicaragua.

I am, &c.,

LEWIS CASS.

[INCLOSURE.]

(Memorandum for Mr. Dimitry, to accompany general instructions of August 31, 1859.)

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I am, &c.,

LEWIS CASS.

[INCLOSURE.]

(Memorandum for Mr. Dimitry, to accompany general instructions of August 31, 1859.)

You are aware that difficulties growing out of the Clayton-Bulwer treaty have arisen between this country and Great Britain.

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

1st October, 1859.

(Mr. Cass to Mr. Clarke.)

[No. 6.]

DEPARTMENT OF STATE,
WASHINGTON, October 1, 1859.

SIR:

This Department has received information that Mr. Wyke, Her Britannic Majesty's chargé d'affaires in Honduras, has recently returned from London to his official duties, with instructions to negotiate a treaty with the Government of that country for the relinquishment to that republic of the Bay Islands. Under these circumstances the President thinks it very desirable that you, also, should be present in Honduras, in order to be able to render all suitable aid within your power to promote the contemplated session, as well as to be in a position to furnish early and reliable information to your Government with respect to the progress and results of the negotiation. You will embrace the earliest opportunity, therefore, to proceed to Comayagua and place yourself in communication with the Government there.

With your instructions No. 1, dated 29th March, 1858, you were furnished with copies of all the correspondence which had been printed in reference to Central American affairs, and from these, as well as from other sources which have been open to you, you have doubtless become familiar with the whole controversy concerning the Bay Islands which has existed between the United States and Great Britain. In the opinion of this Government, these Islands are a part of the territory of Honduras, and their occupation by Great Britain would have been wholly unjustifiable even if the Clayton-Bulwer treaty had never existed. By the terms of this treaty, however (of July 5, 1850), it is provided that "the Governments of the United States and Great Britain, neither the one nor the other shall ever occupy, or fortify, or colonize, or assume or exercise any dominion over Costa Rica, Nicaragua, the Mosquito shore, or any part of Central America." There being no doubt that the Bay Islands form a part of Central America, their occupation by Great Britain was distinctly prohibited by this provision of the Clayton-Bulwer treaty.

Yet they were seized by British officers, almost as soon as the treaty had been signed, and in less than two years afterward they were formally erected into a British colony. Of course the Gov-

ernment of the United States lost no time in protesting against this violation of the treaty, and the correspondence to which it led is already in your possession.

In 1856 the two Governments endeavored to adjust all the questions which had arisen under the convention, by a supplementary treaty, and such a treaty was signed at London by Lord Clarendon, on the part of Her Britannic Majesty, and Mr. Dallas, on the part of the United States, on the 17th October, 1856. That portion of it which referred to the Bay Islands was in the following words:

“That the islands, and their inhabitants, of Ruatan, Bonacca, Utila, Barbarate, Helene, and Moxat, situate in the Bay of Honduras, and known as the Bay Islands, having been by a convention bearing date the twenty-seventh day of August, 1856, between Her Britannic Majesty and the Republic of Honduras, constituted and declared a free territory under the sovereignty of the said Republic of Honduras, the two contracting parties do hereby mutually engage to recognize and respect in all future time the independence and rights of the said free territory as a part of the Republic of Honduras.”

The treaty here referred to, of August, 1856, had not been communicated to this Government and was not officially before the Senate when it had under consideration the Dallas-Clarendon treaty. It declined, therefore, to sanction a reference to it, which might be construed afterward into an approval of its terms. The treaty, moreover, had been published in some of the public journals, and its provisions were not such as this Government could sanction. It erected the islands into “a free territory under the sovereignty of Honduras,” but it then proceeded to deprive that Republic of rights without which its sovereignty over them could scarcely be said to exist. It separated them from the remainder of Honduras, and gave them a Government of their own, with their own legislative, executive, and judicial officers, elected by themselves. It deprived the Government of Honduras of the taxing power in every form, and exempted the people of the Bay Islands from the performance of military duty, except for their own defense, and it prohibited the Republic from providing for their defense by the construction of any fortifications whatever. It provided, moreover, that slavery should at no time be permitted to exist in those islands. As slavery had never existed there and was not likely to be established there, this latter clause was wholly unnecessary, and when brought to the

attention of the United States could not fail to be regarded as highly offensive.

But the restrictions were, all of them, in violation of the rights of Honduras. The islands were a part of her territory, and Great Britain having wrongfully seized them, was bound to make an unconditional restoration. Instead of doing this, she required Honduras to assent to a treaty by which they were erecting into an independent state within her own limits, and a state at all times liable to foreign influence and control. Entertaining this opinion, the Senate amended the Dallas-Clarendon convention by substituting for the clause already quoted the following :

“The two contracting parties do hereby mutually engage to recognize and respect the islands of Ruatan, Bonassa, Utila, Barbarati, Helene, and Moxat, situate in the Bay of Honduras, and off the coast of the Republic of Honduras, as under the sovereignty and as part of the said Republic of Honduras.”

Great Britain declined to assent to this amendment, and the Dallas-Clarendon treaty fell to the ground. The British treaty with Honduras also failed to be ratified by that Republic, and thus the Clayton-Bulwer convention, according to our construction of it, still remained unexecuted.

To avoid the difficulties which this state of things was likely to produce, the British Government proposed to send out a special Minister to Central America, who might adjust the questions which had been under discussion in that quarter by separate treaties with Nicaragua, Guatemala, and Honduras. For this purpose Sir William Gore Ouseley was appointed, and came to Washington, on his way to his destination, in November 26, 1857.

While he was here, and even before his arrival, Lord Napier, the British minister in this country, conversed very freely with the Department concerning his instructions, and had also one or two conversations on the subject with the President.

In these conversations it was clearly understood that Her Majesty's Government had determined to execute the Clayton-Bulwer treaty “according to the general tenor of the interpretation placed upon it by the United States,” and that the powers of Sir William Ouseley would be sufficient to enable him to accomplish this purpose. Reference was made, indeed, to the Dallas-Clarendon treaty, as amended by the Senate, but it was understood that the special minister would be at liberty to modify some of its provisions, in order to make it acceptable to the United States.

On the 30th of November Lord Napier communicated officially to the Department a general statement of Sir William's instructions. That part of them which refers to Honduras is described as follows:

"1. The transfer of the Bay Islands to the Government of Honduras was recognized by the treaty of 1856, mentioned above, and the conditions of this cession were consigned in a treaty between Great Britain and Honduras, which has been communicated to the Government of the United States, but which has not been ratified by the contracting parties. By that treaty Her Majesty's Government intended to convey the islands in full sovereignty to the Republic of Honduras, to provide for them such a measure of municipal independence and self-government as might secure Her Majesty's subjects in the enjoyment and improvement of their possessions, and develop the resources of the islands, which may be destined to attain hereafter some commercial importance as an *entrepôt* in connection with the projected interoceanic railway.

"In looking to these reasonable and salutary ends it is, however, probable that the intervention of the Honduras Government in the administration of the islands may have been more limited than was necessary or even advisable. Her Majesty's Government in relinquishing the Bay Islands, are far from desiring that they should remain defenseless or become independent. Sir William Ouseley is not bound down to the terms of the original treaty; he is at liberty to contract engagements with Honduras which shall embody not only an unmistakable recognition of its sovereignty over the islands, but shall allow of the more direct government, and more efficient protection of the latter by that Republic.

"The transfer of the islands will not be unconditional, but it will be unambiguous.

"The Government of Honduras will obtain not only a titular but a virtual and useful possession under provisions requisite for the security of those who have settled there with the assurance of protection from the British crown, and favorable to the expansion of that traffic which the transit route is expected to create.

"2. In framing stipulations for the compensation, the government, and the preservation of the Mosquito Indians under the sovereignty of Nicaragua, Sir William Ouseley will be guided by the provisions of the treaty of 1856, which, although it did not acquire the validity of an international engagement, may on this point be held to express the policy and opinions of the contracting parties. The limits of the territorial reserve may be subject to modifications,

but the boundaries proposed by Nicaragua and Honduras will certainly not be less favorable than those indicated by the treaty alluded to; they will in no degree trespass on the territory applicable to transit purposes; and in the settlement of details Her Majesty's envoy will grant an indulgent consideration to the wishes and necessities of the Central American Governments where they are compatible with the safety and the welfare of those native tribes which have previously enjoyed the protection of the British crown.

"3. The regulation of the frontier of British Honduras will be effected by negotiation with the Government of Guatemala. Her Majesty's Government trusts to obtain from this Republic a recognition of limits which, if we may judge from previous communications on this subject, may be accepted in a spirit of conciliation, if not with absolute approval, by the President."

Although this statement of the instructions was not accompanied by any draft of a treaty, and was not sufficiently specific to authorize an accurate judgment of their character, it was nevertheless hoped that they might be quite sufficient to answer their purpose. In reference to the views and expectations of the United States, there could be no doubt whatever, because, apart from the action of the Senate concerning the Dallas-Clarendon treaty, these views and expectations had been repeatedly expressed to the British minister, both orally and in writing. It was known that while it was quite immaterial to us whether Great Britain executed the Clayton-Bulwer treaty by a supplementary convention with us or by direct negotiation with the States of Central America, we yet expected that the treaty would be executed substantially according to our construction of it, and that, with reference to the Bay Islands, this construction required their unconditional surrender to Honduras.

Of course this Government could never sanction any such limitations upon the sovereignty of that Republic over its own territory as were contained in the Dallas-Clarendon convention, and the clause in respect to slavery was not only an unjust condition in regard to Honduras, but was also offensive, under the circumstances, to the United States. It was believed that the cession might well be made without any of these conditions, and that if any security should be really necessary to preserve the rights of British settlers upon the islands, it might safely be postponed to a new convention, when both parties should be in a situation to treat upon equal terms.

Whether Sir William Ouseley would have conformed to these views if he had made a treaty with Honduras can only be conjectured from what we know of his instructions. Unfortunately, he delayed a long time in Washington, and since his arrival in Central America, either from sickness or from some other cause, he has wholly failed to accomplish the object of his mission.

Mr. Wyke, who negotiated the previous treaty with Honduras for the cession of the Bay Islands, is now authorized to negotiate another with that Republic for the same object, and his authority is understood to be even more ample than that which was given to Sir William Ouseley. He is now, perhaps, in Guatemala, but will soon proceed to Honduras, and it is hoped that you will be able to co-operate with him in the leading purpose of his mission.

This narrative has fully explained to you the views of your Government upon the subject, and if, in conformity with these views, you can in any way assist Mr. Wyke in his negotiation, you will not fail to do so. To this end you should be in friendly relations with him, as well as with the Government of Honduras, and you may frankly state to both the general expectations which your Government entertains in respect to the cession of the Bay Islands. Believing that Honduras is the lawful owner of those islands, we cannot advise her to purchase their surrender by consenting to any terms which are inconsistent with her dignity and rights. We believe that the surrender of them should be wholly unconditional, but there may be provisions in behalf of private rights, or even for the benefit of general commerce, of so reasonable a character that their insertion in the treaty ought not to occasion its defeat, even although they might more properly belong to another negotiation. With what is believed, however, to be the present disposition of the British Government, and with the liberal margin of discretion with which Mr. Wyke is supposed to be intrusted, it is hoped that the cession will not be incumbered with any stipulations to which either the United States or Honduras might reasonably take exception.

It is important that the treaty should be completed, if possible, so that it may be known in Washington at an early day after the meeting of Congress. You will, therefore, communicate a copy of it to the Department at the earliest practicable period, and your Government will then determine for itself whether its provisions can be regarded as a reasonable compliance in respect to Honduras with the Clayton Bulwer treaty.

I will thank you, also, to inform the Department of your depart-

ure from Guatemala and of your arrival in Comayagua, and generally of the course and progress of the negotiation.

Your dispatches to No. 12, inclusive, have been received.

I am, &c.,

LEWIS CASS.

[*The above letter appears as Document 9, Inclosure 4, in Special Message of President, 8th March, 1880, pp. 121-124.*]

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

28th November, 1859.

(Treaty between Great Britain and Honduras respecting the Bay Islands, the Mosquito Indians, and the rights and claims of British subjects, signed at Comayagua, November 28th, 1859.)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Honduras, being desirous to settle in a friendly manner certain questions in which they are mutually interested, have resolved to conclude a Treaty for that purpose and have named as their Plenipotentiaries, that is to say

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honorable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, on a special mission to the Republics of Central America; and His Excellency the President of the Republic of Honduras, Don Francisco Cruz, Political Chief of the Department of Comayagua.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ART. I. Taking into consideration the peculiar geographical position of Honduras, and in order to secure the neutrality of the islands adjacent thereto, with reference to any railway or other line of interoceanic communication which may be constructed across the territory of Honduras on the mainland, Her Britannic Majesty agrees to recognize the Islands of Ruatan, Guanaca, Elena, Utile, Barbarete, and Morat, known as the Bay Islands, and situated in the Bay of Honduras, as a part of the Republic of Honduras.

The inhabitants of the said islands shall not be disturbed in the enjoyment of any property which they may have acquired therein,

and shall retain perfect freedom of religious belief and worship, public and private, but remaining in all other respects subject to the laws of the Republic. If any of them should wish to withdraw from the islands, they shall be at full liberty to do so; to dispose of their fixed or other property as they may think fit, and to take with them the proceeds thereof.

The Republic of Honduras engages not to cede the said islands, or any of them, or the right of sovereignty over such islands, or any of them, or any part of such sovereignty, to any nation or state whatsoever.

ART. II. Her Britannic Majesty engages, subject to the conditions and engagements specified in the present Treaty, and without prejudice to any question of boundary between the Republics of Honduras and Nicaragua, to recognize as belonging to and under the sovereignty of the Republic of Honduras the country hitherto occupied or possessed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be. The British protectorate of that part of the Mosquito territory shall cease 3 months after the exchange of the ratifications of the present treaty, in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said treaty.

ART. III. The Mosquito Indians in the district recognized by Article II of this treaty as belonging to and under the sovereignty of the Republic of Honduras shall be at liberty to remove, with their property, from the territory of the Republic, and to proceed whithersoever they may desire, and such of the Mosquito Indians who remain within the said district shall not be disturbed in the possession of any lands or other property which they may hold or occupy, and shall enjoy, as natives of the Republic of Honduras, all rights and privileges enjoyed generally by the natives of the Republic.

The Republic of Honduras being desirous of educating the Mosquito Indians, and improving their social condition in the district so occupied by them, will grant an annual sum of 5,000 dollars, in gold or silver, for the next 10 years for that purpose, to be paid to their headman in the said district, the payment of such annual sum being guaranteed them by a mortgage on all woods and other natural productions (whatever they may be) of the state lands in the Bay Islands and the Mosquito territory. These payments shall be made in half-yearly instalments of 2,500 dollars each, the first of which payments

shall be made 6 months after the exchange of the ratifications of the present treaty.

ART. IV. Whereas British subjects have, by grant, lease, or otherwise, heretofore obtained from the Mosquito Indians interests in various lands situated within the district mentioned in the preceding article, the Republic of Honduras engages to respect and maintain such interests; and it is further agreed that Her Britannic Majesty and the Republic shall, within 12 months after the exchange of the ratifications of the present Treaty, appoint two commissioners, one to be named by each party, in order to investigate the claims of British subjects arising out of such grants or leases, or otherwise, and all British subjects whose claims shall, by the commissioners, be pronounced well founded and valid, shall be quieted in the possession of their respective interests in the said lands.

ART. V. It is further agreed between the contracting parties that the commissioners mentioned in the preceding article shall also examine and decide upon any British claims upon the Government of Honduras that may be submitted to them, other than those specified in that article, and not already in a train of settlement; and the Republic of Honduras agrees to carry into effect any agreements for the satisfaction of British claims already made, but not yet carried into effect.

ART. VI. The commissioners mentioned in the preceding articles shall meet in the city of Guatemala, at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, all the matters referred to them for their decision, and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some third person to act as an arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the commissioner on either side shall name a person; and in each and every case in which the commissioner may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be

chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the commissioners, which declaration shall also be entered on the record of the proceedings.

In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person or persons shall be named as aforesaid to act as arbitrator or umpire in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Honduras hereby engage to consider the decision of the commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision; and they further engage forthwith to give full effect to the same.

ART. VII. The commissioners and the arbitrator or umpire shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ a clerk or other persons to assist them in the transaction of the business which may come before them.

The salaries of the commissioners shall be paid by their respective governments. The contingent expenses of the commission, including the salary of the arbitrator or umpire and of the clerk or clerks shall be defrayed in equal halves by the two governments.

ART. VIII. The present Treaty shall be ratified and the ratifications shall be exchanged at Comayagua as soon as possible within 6 months from this date.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Comayagua the 28th day of November, in the year of our Lord 1859.

[L. S.]

C. LENNOX WYKE.

[L. S.]

FRANCISCO CRUZ.

[*The above treaty appears as Document 60, in Special Message of President, 29th July, 1882, pp. 148-151.*]

36th Congress, 1st Session.
Senate Doc. No. 2.
In Vol. 1, Part 1.

19th December, 1859.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

Until a recent period there was good reason to believe that I should be able to announce to you on the present occasion that our difficulties with Great Britain, arising out of the Clayton-Bulwer treaty, had been finally adjusted in a manner alike honorable and satisfactory to both parties. From causes, however, which the British government had not anticipated, they have not yet completed treaty arrangements with the republics of Honduras and Nicaragua in pursuance of the understanding between the two governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished.

* * * * *

I deem it to be my duty once more earnestly to recommend to Congress the passage of a law authorizing the President to employ the naval force at his command for the purpose of protecting the lives and property of American citizens passing in transit across the Panama, Nicaragua, and Tehautepec routes, against sudden and lawless outbreaks and depredations. I shall not repeat the arguments employed in former messages in support of this measure. Suffice it to say that the lives of many of our people, and the security of vast amounts of treasure passing and repassing over one or more of these routes between the Atlantic and Pacific, may be deeply involved in the action of Congress on this subject.

* * * * *

JAMES BUCHANAN.

WASHINGTON CITY, December 19, 1859.

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

28th January, 1860.

(Treaty between Great Britain and Nicaragua relative to the Mosquito Indians and to the rights and claims of British subjects. Signed at Managua January 28, 1860.)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to settle in a friendly manner certain questions in which they are mutually

interested, have resolved to conclude a Treaty for that purpose, and have named as their plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honorable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special mission to the Republics of Central America; and his Excellency the President of the Republic of Nicaragua, Don Pedro Zeledon, Minister for Foreign Affairs,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ART. I. On exchanging the ratifications of the present Treaty, Her Britannic Majesty, subject to the conditions and engagements specified therein, and without prejudice to any question of boundary between the Republics of Nicaragua and Honduras, will recognize as belonging to and under the sovereignty of the Republic of Nicaragua the country hitherto occupied or claimed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be.

The British protectorate of that part of the Mosquito territory shall cease three months after the exchange of the ratifications of the present Treaty; in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said Treaty.

II. A district within the territory of the Republic of Nicaragua shall be assigned to the Mosquito Indians, which district shall remain, as above stipulated, under the sovereignty of the Republic of Nicaragua. Such district shall be comprised in a line, which shall begin at the mouth of the river Rama, in the Caribbean Sea; thence it shall run up the mid-course of that river to its source, and from such source proceed in a line due west to the meridian of $84^{\circ} 15'$ longitude west from Greenwich; thence due north up the said meridian until it strikes the river Hueso, and down the mid-course of that river to its mouth in the sea, as laid down in Baily's map at about latitude from 14° to 15° north, and longitude 83° west from the meridian of Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the river Rama, the point of commencement. But the district thus assigned to the Mosquito Indians may not be ceded by them to any

foreign person or state, but shall be and remain under the sovereignty of the Republic of Nicaragua.

III. The Mosquito Indians within the district designated in the preceding article shall enjoy the right of governing according to their own customs, and according to any regulations which may from time to time be adopted by them, not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves, and all persons residing within such district. Subject to the above-mentioned reserve, the Republic of Nicaragua agrees to respect and not to interfere with such customs and regulations so established or to be established within the said district.

IV. It is understood, however, that nothing in this treaty shall be construed to prevent the Mosquito Indians at any future time from agreeing to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the republic, and from subjecting themselves to be governed by the general laws and regulations of the republic instead of by their customs and regulations.

V. The Republic of Nicaragua, being desirous of promoting the social improvement of the Mosquito Indians, and of providing for the maintenance of the authorities to be constituted under the provisions of Article III of this treaty, in the district assigned to the said Indians, agrees to grant to the said authorities, for the space of 10 years, with a view to such purposes, an annual sum of 5,000 hard dollars. The said sum shall be paid at Greytown, by half-yearly payments, to such persons as may be authorized by the chief of the Mosquito Indians to receive the same, and the first payment shall be made 6 months after the exchange of the ratifications of the present treaty.

For the payment of this sum Nicaragua will levy and especially consign a duty, to be levied according to weight, on all packages of goods that are imported into that port for consumption in the territory of the republic; and in case this duty shall not suffice for the payment of said sum, the deficit shall be made up from the other duties levied in the republic.

VI. Her Britannic Majesty engages to use her good offices with the chief of the Mosquito Indians, so that he shall accept the stipulations which are contained in this convention.

VII. The Republic of Nicaragua shall constitute and declare the port of Greytown, or San Juan del Norte, a free port under the sovereign authority of the republic. But the Republic, taking into consideration the immunities heretofore enjoyed by the inhabitants

of Greytown, consents that trial by jury in all cases, civil or criminal, and perfect freedom of religious belief and worship, public and private, such as has hitherto been enjoyed by them up to the present moment, shall be guaranteed to them for the future.

No duties or charges shall be imposed upon vessels arriving in or departing from the free port of Greytown, other than such as may be sufficient for the due maintenance and safety of the navigation, for providing lights and beacons, and for defraying the expense of the police of the port; neither shall any duties or charges be levied in the free port on goods arriving therein, in transit from sea to sea. But nothing contained in this article shall be construed to prevent the Republic of Nicaragua from levying the usual duties on goods destined for consumption within the territory of the republic.

VIII. All *bona fide* grants of land for due consideration, made in the name and by the authority of the Mosquito Indians since the 1st of January, 1848, and lying beyond the limits of the territory reserved for the said Indians, shall be confirmed, provided, the same shall not exceed in any case the extent of 100 yards square, if within the limits of San Juan or Greytown, or one league square if without the same, and provided that such grant shall not interfere with other legal grants made previously to that date by Spain, the Republic of Central America, or Nicaragua; and provided further, that no such grant shall include territory desired by the government of the latter state for forts, arsenals, or other public buildings. This stipulation only embraces those grants of land made since the 1st of January, 1848.

In case, however, any of the grants referred to in the preceding paragraph of this article should be found to exceed the stipulated extent, the commissioners hereinafter mentioned shall, if satisfied of the *bona fides* of any such grants, confirm to the grantee or grantees, or to his or their representatives or assigns, an area only equal to the stipulated extent.

And in case any *bona fide* grant, or any part thereof, should be desired by the government for forts, arsenals, or other public buildings, an equivalent extent of land shall be allotted to the grantees elsewhere.

It is understood that the grants of land treated of in this article shall not extend to the westward of the territory reserved for the Mosquito Indians in Article II further than 84° 30' of longitude, in a line parallel and equal with that of said territory on the same side;

and if it should appear that any grants have been made further in the interior of the republic, the lands acquired *bona fide* shall be replaced with those that are within the limits defined under the regulations agreed upon.

IX. Her Britannic Majesty and the Republic of Nicaragua shall, within six months after the exchange of the ratifications of the present treaty, appoint each a commissioner for the purpose of deciding upon the *bona fides* of all grants of land mentioned in the preceding article as having been made by the Mosquito Indians of lands heretofore possessed by them, and lying beyond the limits of the territory described in Article I.

X. The commissioners mentioned in the preceding article shall, at the earliest convenient period after they shall have been respectively named, meet at such place or places as shall be hereafter fixed; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the commissioner on either side shall name a person, and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the commissioners, which declaration shall also be entered on the record of the proceedings.

In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person or other persons shall be named as aforesaid to act in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Nicaragua shall engage to consider the decision of the two commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and con-

clusive on the matters to be referred to their decision, and forthwith to give full effect to the same.

XI. The commissioners and the arbitrators or umpires shall keep accurate records and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ such clerk or clerks, or other persons, as they shall find necessary to assist them in the transaction of the business which may come before them.

The salaries of the commissioners and of the clerk or clerks shall be paid by their respective governments.

The salary of the arbitrators or umpires and the contingent expenses shall be defrayed in equal moieties by the two governments.

XII. The present Treaty shall be ratified by Her Britannic Majesty, and by the Congress of the Republic of Nicaragua, and the ratifications shall be exchanged at London as soon as possible within the space of six months.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Managua, this 28th day of January, in the year of our Lord 1860.

[L. S.]

CHARLES LENNOX WYKE.

[L. S.]

PEDRO ZELEDON.

DECLARATION.

In proceeding to the exchange of the ratifications of the Treaty concluded and signed at Managua on the 28th of January, 1860, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, relative to the Mosquito Indians and to the rights and claims of British subjects, the undersigned, Her Britannic Majesty's principal Secretary of State for Foreign Affairs, and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, hereby declare that the limitation laid down in the paragraph added by the Congress of the Republic to Article VIII of the said Treaty applies to grants of land to the west of the meridian of $84^{\circ} 30'$ of longitude throughout the whole extent of the territory hitherto occupied or claimed by the Mosquito Indians within the frontier of the Republic, but not to grants in any part of the said territory to the east of that meridian line.

In witness whereof the undersigned have signed the present declaration, and have affixed thereto their respective seals.

Done at London, the 2d day of August, in the year of our Lord 1860.

[L. S.]

J. RUSSELL.

[L. S.]

J. DE MARCOLETA.

[*The above treaty appears as Document 61, in Special Message of President, 29th July, 1882, pp. 151-154.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

18h February, 1860.

(Mr. Cass to Mr. Clarke.)

[No. 11.]

DEPARTMENT OF STATE,
WASHINGTON, February 18, 1860.

SIR:

Your dispatch of the 24th December has been received.

In connection with Mr. Wyke's note to you, a copy of which accompanied that dispatch, the Department has received the circumstances which have marked your recent official conduct in Central America. The Department regrets exceedingly that your understanding of the precise relations between this Government and that of Great Britain in regard to Central American questions was so inexact as to permit you to adopt a line of conduct different from that which the accord of those Governments would have indicated as the most consistent with their mutual views, and to lead you to protest against negotiations which were in harmony with the understanding of the subject entertained here and at London. The dispatch of 1st October last, which you have received, enabled you so to modify your course as to correct the misapprehension which your protest and correspondence were likely to excite on the part of the Governments of Guatemala and Honduras, although in communicating the views of your Government expressed in that dispatch it is to be regretted that the historical summary embodied in it for your information was transferred so literally to your note of 9th of November to Mr. Wyke.

In making these observations, which I do equally in a spirit of frankness and kindness, I do not wish to be understood as censuring you for adopting a course which is not entirely approved.

On the contrary, I am pleased to be permitted to say that the President highly appreciates that zeal for the interests of your country which prompted you to adopt energetic measures when you thought those interests were in jeopardy. The patriotism of your conduct cannot be questioned, nor the integrity of your purposes doubted.

I am, &c.,

LEWIS CASS.

[*The above letter and inclosures appear as Document 9, Inclosure 5, in Special Message of President, 8th March, 1880, p. 124.*]

53d Congress, 2d Session.
House Mis. Doc., Vol. 37.
Messages of Presidents,
Vol. V., p. 585.

5th April, 1860.

(Special Message of the President of the United States.)

WASHINGTON, April 5, 1860.

To the Senate of the United States :

I transmit, for the consideration of the Senate, with a view to ratification, a treaty of friendship, commerce and navigation between the United States and the Republic of Honduras, signed by the plenipotentiaries of the parties, in this city, on the 28th day of last month.

The 14th article of this treaty is an exact copy of the supplemental article of the "treaty of friendship, commerce and navigation between Great Britain and the Republic of Honduras," dated 26th day of August, 1856, with the necessary changes in names and dates. Under this article the Government and people of the United States will enjoy in the fullest and most satisfactory manner the use of the "Honduras Interoceanic Railway," in consideration of which the United States recognizes the rights of sovereignty and property of Honduras over the line of the road and guarantees its neutrality, and, when "the road shall have been completed, equally engages, in conjunction with Honduras, to protect the same from interruption, seizure, or unjust confiscation, from whatever quarter the attempt may proceed."

This treaty is in accordance with the policy inaugurated by the Government of the United States, and in an especial manner by the Senate in the year 1846, and several treaties have been concluded

to carry it into effect. It is simple, and may be embraced in a few words. On the one side a grant of free and uninterrupted transit for the Government and people of the United States over the transit routes across the Isthmus, and on the other a guaranty of the neutrality and protection of these routes, not only for the benefit of the Republics through which they pass, but in the language of our treaty with New Granada, in order to secure to themselves the tranquil and constant enjoyment of these interoceanic communications.

The first in the series of these treaties is that with New Granada of the 12th December, 1846. This treaty was concluded before our acquisition of California and when our interests on the Pacific Coast were of far less magnitude than at the present day. For years before this period, however, the routes across the Isthmus had attracted the serious attention of this Government.

This treaty, after granting us the right of transit across the Isthmus of Panama in the most ample terms, binds this Government to guarantee to New Granada "the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists."

In one respect it goes further than any of its successors, because it not only guarantees the neutrality of the route itself, but "the rights of sovereignty and property" of New Granada over the entire Province of Panama. It is worthy of remark that when it was sent to the Senate it was accompanied by a message of President Polk, dated February 10, 1847, in which the attention of that body was especially called to these important stipulations of the thirty fifth article, and in which it was stated, moreover, that our chargé d'affaires who negotiated the treaty "acted in this particular upon his own responsibility and without instructions." Under these circumstances the treaty was approved by the Senate and the transit policy to which I have referred was deliberately adopted. A copy of the executive document (confidential), Twenty-ninth Congress, second session, containing this message of President Polk and the papers which accompanied it is hereto annexed.

The next in order of time of these treaties of transit and guaranty is that of the 19th of April, 1850, with Great Britain, commonly called the Clayton and Bulwer treaty. This treaty, in affirmance of the policy of the New Granada treaty, established a general principle which has ever since, I believe, guided the proceedings of

both Governments. The eight article of that treaty contains the following stipulation:

The Government of the United States having not only desired in entering into this convention to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama.

And that the said—

Canals or railways shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain propose to afford.

The United States, in a short time after the Clayton and Bulwer treaty was concluded, carried this stipulation in regard to the Tehuantepec route into effect by their treaty with Mexico of the 30th December, 1853. The eighth article of this treaty, after granting to us the transit privileges therein mentioned, stipulates that "the Mexican Government having agreed to protect with its whole power the prosecution, preservation, and security of the work, the United States may extend its protection as it shall judge wise, to use it when it may feel sanctioned and warranted by the public or international law."

This is a sweeping grant of power to the United States, which no nation ought to have conceded, but which, it is believed, has been confined within safe limits by our treaty with Mexico now before the Senate.

Such was believed to be the established policy of the Government at the commencement of this administration, viz., the grant of transits in our favor and the guaranty of our protection as an equivalent. This guaranty can never be dangerous under our form of government, because it can never be carried into execution without the express authority of Congress. Still, standing on the face of treaties, as it does, it deters all evil-disposed parties from interfering with these routes.

Under such circumstances the attention of the Executive was early turned to the Nicaragua route as in many respects the most important and valuable to the citizens of our country. In concluding a treaty to secure our rights of transit over this route I experienced many difficulties which I need not now enumerate be-

cause they are detailed in different messages to Congress. Finally a treaty was negotiated exactly in accordance with the established policy of the Government and the views of the Executive, and clear from the embarrassments which might arise under the phraseology of previous treaties. The fourteenth article of the treaty contains a full, clear, and specific grant of the right of transit to the United States and their citizens, and is believed to be perfectly unexceptionable. The fifteenth article, instead of leaving one equivalent duty of protection, general and unlimited, as in our treaty with New Granada and in the Clayton and Bulwer treaty, or instead of that general right assured to the Government in the Mexican treaty of extending its protection as it shall itself judge wise, when it may feel sanctioned and warranted by the public or international law, confines the interference conceded within just and specific limits.

Under the Sixteenth Article of this treaty the Government of the United States has no right to interpose for the protection of the Nicaragua route except with the consent or at the request of the Government of Nicaragua, or of the minister thereof at Washington, or of the competent, legally appointed local authorities, civil or military; and when in the opinion of the Government of Nicaragua the necessity ceases such force shall be immediately withdrawn. Nothing can be more carefully guarded than this provision. No force can be employed unless upon the request of the Government of Nicaragua, and it must be immediately withdrawn whenever in the opinion of that Government the necessity ceases.

When Congress shall come to adopt the measures necessary to carry this provision of the treaty into effect they can guard it from any abuses which may possibly arise.

The general policy contained in these articles, although inaugurated by the United States, has been fully adopted by the Governments of Great Britain and France. The plenipotentiaries of both these Governments have recently negotiated treaties with Nicaragua, which are but transcripts of the treaty between the United States and Nicaragua now before the Senate. The treaty with France has been ratified, it is understood, by both the French and Nicaraguan Governments, and is now in operation. That with Great Britain has been delayed by other negotiations in Nicaragua, but it is believed that these are now concluded and that the ratifications of the British treaty will soon, therefore, be exchanged.

It is presumed that no objection will be made to "the exceptional

case " of the sixteenth article, which is only intended to provide for the landing of sailors or marines from our vessels which may happen to be within the reach of point of difficulty, in order to protect the lives and property of citizens of the United States from unforeseen and imminent danger.

The same consideration may be suggested with respect to the fifth article of the treaty with Mexico, which is also pending before the Senate. This article is an exact copy of the sixteenth article, just referred to, of the treaty with Nicaragua.

The treaty with Honduras, which is now submitted to the Senate follows on this subject the language of the British treaty with that Republic, and is not therefore, identical in its terms with the Nicaraguan and Mexican treaties. The same policy, however, has been adopted in all of them, and it will not fail, I am persuaded, to receive from the Senate all that consideration which it so eminently deserves. The importance to the United States of securing free and safe transit routes across the American Isthmus cannot well be overestimated. These routes are of great interest, of course, to all commercial nations, but they are especially so to us from our geographical and political position as an American State and because they furnish communication between our Atlantic and Pacific States and Territories.

The Government of the United States can never permit these routes to be permanently interrupted, nor can it safely allow them to pass under the control of other rival nations. While it seeks no exclusive privileges upon them for itself, it can never consent to be made tributary to their use to any European power. It is worthy of consideration, however, whether to some extent it would not necessarily become so if after Great Britain and France have adopted our policy and made treaties with the Isthmian Governments in pursuance of it, we should ourselves reconsider it to refuse to pursue it in the treaties of the United States. I might add that the opening of these transit routes cannot fail to extend the trade and commerce of the United States with the countries through which they pass; to afford an outlet and a market for our manufactures within their territories; to encourage American citizens to develop their vast stores of mining and mineral wealth for our benefit, and to introduce among them a wholesome American influence calculated to prevent revolutions and to render their governments stable.

JAMES BUCHANAN.

Messages and Documents.
1860-1861, Part 1.
P. 1.

3d December, 1860.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

The discordant constructions of the Clayton and Bulwer treaty between the two governments, which, at different periods of the discussion, bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this government.

In my last annual message I informed Congress that the British Government had not then

Completed treaty arrangements with the Republics of Honduras and Nicaragua in pursuance of the understanding between the two governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished.

This confident expectation has since been fulfilled. Her Britannic Majesty concluded a treaty with Honduras on the 28th November, 1859, and with Nicaragua on the 28th August, 1860, relinquishing the Mosquito protectorate. Besides, by the former the Bay Islands are recognized as a part of the Republic of Honduras. It may be observed that the stipulations of these treaties conform in every important particular to the amendments adopted by the Senate of the United States to the treaty concluded at London on the 17th October, 1856, between the two governments. It will be recollected that this treaty was rejected by the British Government because of its objection to the just and important amendment of the Senate to the article relating to Ruatan and the other islands in the Bay of Honduras.

* * * * *

JAMES BUCHANAN.

[*The above Message appears as Document 62, in Special Message of President, 29th July, 1882, p. 155.*]

36th Congress, 2d Session.
Senate Ex. Doc. No. 9.
In Vol. 7.

16th February, 1861.

(Report of N. Michler on Survey for an Interoceanic Canal near the Isthmus of Darien, February 16, 1861.)

[*Omitted.*]

Messages and Documents.
1862-63, Part I.
Pp. 131-133.

11th July, 1862.

(Mr. Seward to Mr. Adams.)

[No. 296.]

DEPARTMENT OF STATE,
WASHINGTON, July 11, 1862.

SIR :

The treaty between the United States and the republic of New Granada, signed on the 12th day of December, 1846, contains a stipulation which it will be seen was made not for any special or peculiar interest or advantage of the United States, but for the benefit and advantage of all nations, and which is in the following words, contained in the 35th article of said treaty :

“ And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favors they have acquired by the 4th, 5th, and 6th articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.”

On the 26th of June last Mr. P. A. Herran, minister plenipotentiary of the Granadian confederation, near the government of the United States, transmitted to this department a note, of which a translation is hereto annexed, marked H.

In this note Mr. Herran gave information that Mosquera, a revolutionary chief, who is engaged in subverting the Granadian confederation, had sent an armed force to occupy the Isthmus of Panama, which proceeding was opposed by an unavailing protest of the governor of Panama, and Mr. Herran therefore invoked the interposition of this government in accordance with the treaty obligation above set forth.

Simultaneously with the reception of this note of Mr. Herran's, substantially the same information which it gave was received from our consul residing at Panama; and the President therefore

instructed our naval commander of that port to take care to protect and guarantee, at all hazards and at whatever cost, the safety of the railroad transit across the Isthmus of Panama. Mr. Herran now insists that, owing to the character of the population on the isthmus and the revolutionary condition of that region, the security of the transit across the isthmus cannot be adequately insured by the presence and activity of a mere naval force, and that the Granadian confederation is entitled, therefore, to the special aid of a land force to be sent from the United States, and suggests that it should be made to consist of three hundred cavalry.

This Government has no interest in the matter different from that of other maritime powers. It is willing to interpose its aid in execution of its treaty and for the benefit of all nations. But if it should do so, it would incur some hazard of becoming involved in the revolutionary strife which is going on in that country. It would also incur danger of misapprehension of its objects by other maritime powers if it should act without previous consultation with them. The revolutionary disturbances existing in that quarter are doubtlessly as well known and understood by the governments of Great Britain and France as they are by this government, and they are probably also well informed of the proceeding of Mosquera, which has moved Mr. Herran's application to the President. He desires an understanding with these two governments upon the subject, and you are therefore instructed to submit the matter to Earl Russell, as Mr. Dayton will likewise be instructed to confer with Mr. Thouvenel.

The points to be remembered are :

First, whether any proceeding in the matter shall be adopted by the United States, with the assent and acquiescence of the British and French governments?

Secondly, what should be the force and extent of the aid to be rendered to the Granadian confederation?

Thirdly, whether these governments will unite with the United States in guaranteeing the safety of the transit under the authority of the Granadian confederation, or either of these objects, and the form and manner in which the parties shall carry out such agreement?

I hardly need say that this government is not less anxious to avoid any such independent or hasty action in the matter as would seem to indicate a desire for exclusive or especial advantages

in New Granada than the British government can be that we shall abstain from such a course.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

The same, *mutatis mutandis*, to Mr. Dayton, No. 180.

Messages and Documents.
1862-63, Part I.
P. 164.

1st August, 1862.

(Mr. Adams to Mr. Seward.)

[*Extract.*]

[No. 201.]

LEGATION OF THE UNITED STATES,
LONDON, August 1, 1862.

SIR :

* * * * *

4. Lastly, I read to his lordship the despatch, No. 296, relating to the claim of Mr. Herran for the fulfilment of the guarantee to New Granada to protect the transit on the Isthmus of Panama. I observed that it must be obvious that the government of the United States could not desire just at this time to enlarge the field of operation for its forces; hence that its performance of this obligation would necessarily depend only upon a full conviction of its imperative character. On that point it would be glad to consult with other powers most interested in the transit, which it was the object to preserve. His lordship seemed already well informed of the facts in the case. He said that he did not yet perceive the contingency to have occurred which called for interposition. It was true that General Mosquera was in occupation of the territory in resistance to the Granadian government. Such things were happening all the time in South America. But there has been no attempt, so far as he knew, to obstruct the free transit across the isthmus, nor did he understand that any disposition had been shown to do so. Until there should be some manifestation of the sort, any demonstration might have the appearance of interposing to effect a different purpose. His lordship added that, on the happening of an actual derangement of the communication, the British government would readily co-operate with the United States in the

measures that might be thought necessary to make good the privileges secured by the guarantee.

I believed this closed all the topics to which it had been made my duty especially to call his lordship's attention. I then took my leave of him, probably for the season, as he spoke of his departure from town next week, and mentioned that the under secretary would, in his absence, attend to the transaction of any business that I might have occasion to propose.

* * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Messages and Documents.
1862-63, Part I.
Pp. 380 and 381.

29th August, 1862.

(Mr. Dayton to Mr. Seward.)

[No. 185.]

PARIS, August 29, 1862.

Sir:

I have to-day called the attention of Mr. Thouvenel to your despatch No. 180, in reference to the application of New Granada for assistance in the preservation of the neutrality of the Isthmus and the sovereignty of that country. Somewhat to my surprise, I found that your despatch had not been submitted by the minister *ad interim* to Mr. Thouvenel on his return, and that, in point of fact, he had not yet seen it. He informed me, however, that the same question, substantially, had been presented to him through Mr. Mercier, and that a written reply had been forwarded, some days since, which doubtless has been, or will be, promptly communicated to you. Mr. Thouvenel, however, seemed to think your communication was rather in the nature of a conference as to what you should, under the circumstances, do, than as indicating any fixed determination to act in the premises. He says that, in the view he took, he did not see that it was necessary that you should, under the treaty, do anything at all. That the neutrality of the Isthmus was not in question and the railroad had not been disturbed. He said that whether one party or the other had control of the government

of New Granada did not affect the question; that France had not recognized Mosquera or his government, because, there was an opposition in arms against him; or, in other words, there was a civil war between opposing parties; that, if the railroad were about to be interrupted or destroyed, he would not think it improper for the United States to interfere; but if matters remained now as they were a month since, when his advices were received, he thought it uncalled for at this time by any treaty stipulation. He referred, too, to the somewhat anomalous position of Mr. Herran, who made the call for interference, and who, he seemed to think, did not represent the government actually in power. He further said that, a few days since, the British ambassador had applied to them to know what view the French government took of this matter, and he had sent him, by way of reply, a copy of his late note to Mr. Mercier; that they had not, as yet, heard what action the British government had taken upon the question.

The above is the substance of our conversation. I should have asked from Mr. Thouvenel (as I had from Mr. Rouher) a written reply, but for the fact stated, that he had already written to Mr. Mercier. If you have occasion to communicate to the government of New Granada the view taken by France, a copy of this note, if asked for, will doubtless be supplied by Mr. Mercier.

I am, sir, your obedient servant,

WILLIAM L. DAYTON.

HIS EXCELLENCY WM. H. SEWARD,
Secretary of State, &c , &c., &c,

Messages and Documents.
1862-63, Part I.
P. 381.

15th September, 1862.

(Mr. Seward to Mr. Dayton.)

[No. 215.]

DEPARTMENT OF STATE,
WASHINGTON, September 15, 1862.

SIR :

Your despatch of August 29 (No. 185) has been received. It brings Mr. Thouvenel's answer to the suggestion, which you were instructed to make to him on the part of this government in relation to matters in New Granada. You may say to Mr. Thouvenel

that his views entirely accord with those which have been adopted by the President.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

WILLIAM L. DAYTON, &c., &c., &c.

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

4th July, 1864.

(Article 14 of Treaty of July 4, 1864, between the United States and Honduras.
(Clay-Colindres Treaty.)

ARTICLE XIV.

Inasmuch as a contract was entered into by the Government of Honduras and a company entitled the "Honduras Inter-oceanic Railway Company" for the construction of a railway from the Atlantic to the Pacific oceans, through the territories of Honduras, which contract was ratified by the constitutional powers of the State, and proclaimed as a law on the 28th day of April, 1854; and inasmuch as, by the terms of Article 5, Section 6, of said contract, the Government of Honduras, with "the view to secure the route herein contemplated from all interruption and disturbance from any cause, or under any circumstances, engages to open negotiations with the various governments with which it may have relations for their separate recognition of the perpetual neutrality, and for the protection of the aforesaid route"; therefore, to carry out the obligations thus incurred:

1. The Government of Honduras agrees that the right of way or transit over such route or road, or any other that may be constructed within its territories, from sea to sea, shall be at all times open and free to the Government and citizens of the United States for all lawful purposes whatever. No tolls, duties, or charges of any kind shall be imposed by the Government of Honduras on the transit of property belonging to the Government of the United States, or on the public mails sent under authority of the same, nor on the citizens of the United States. And all lawful produce, manufactures, merchandise, or other property belonging to citizens of the United States, passing from one ocean to the other, in either direction, shall be subject to no import or export duties whatever, nor to any discriminating tolls or charges for conveyance or transit, on any such route or road as aforesaid, and shall be secure and protected from

all interruption or detention on the part of the State. The Republic of Honduras further agrees that any other privilege or advantage, commercial or other, which is or may be granted to the subjects or citizens of any other country in regard to such route or road as aforesaid, shall also, and at the same time, be extended to citizens of the United States; and, finally, as an evidence of its disposition to accord to the travel and commerce of the world all the advantages resulting from its position in respect to the two great oceans, Honduras, of her own good will, engages to establish the ports at the extremities of the contemplated road as free ports for all the purposes of commerce and trade.

2. In consideration of these concessions, in order to secure the construction and permanence of the route or road herein contemplated, and also to secure, for the benefit of mankind, the uninterrupted advantages of such communication from sea to sea, the United States recognizes the rights of sovereignty and property of Honduras in and over the line of said road, and for the same reason guarantees positively and efficaciously the entire neutrality of the same, so long as the United States shall enjoy the privileges conceded to it in the preceding section of this article. And when the proposed road shall have been completed the United States equally engages, in conjunction with Honduras, to protect the same from interruption, seizure, or unjust confiscation, from whatsoever quarter the attempt may proceed.

3. Nevertheless, the United States, in according its protection to the said route or road, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally; and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this article, either by making unfair discriminations in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Honduras.

[The above article appears as Document 12, in Special Message of President, 8th March, 1880, pp. 151-152.]

Diplomatic Correspondence.
1866, Part III.
Pp. 451-452.

11th August, 1865.

(Mr. Burton, Minister to U. S. Colombia, to Mr. Seward.)

[*Extract.*]

[No. 190.]

LEGATION OF THE UNITED STATES,
BOGATA, August 11, 1865.

SIR :

* * * * *

I also attach paper B, addressed to him (Commander George Henry Preble,) concerning the apprehended hostile invasion of the State of Panama by persons from other States of the republic. This invasion will be very likely to take place before long.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE 1 IN NO. 190.]

(Mr. Burton to Commander Preble.)

[No. 4.]

LEGATION OF THE UNITED STATES,
BOGOTA, July 1, 1865.

SIR:

The President of Colombia informed me to-day that he is advised that armed men from other States are preparing to invade the State of Panama for the purpose of making war against its authorities and people, and expressed it as his opinion that such an invasion would be a violation of the neutrality and sovereignty of the isthmus, which the United States are bound by treaty to secure to Colombia. I regret to say that I am without positive instructions on this point. It is, however, my opinion that the President's views are reasonable, and that while carefully avoiding any interference in the local affairs of the State, except for the protection of American interests, it is our duty to prevent its invasion by armed force from abroad if called on to do so by the proper authority of the republic, vested at present, as the President informs me, in General Santos Gutierrez.

I am, sir, very respectfully, your obedient servant,

ALLAN A. BURTON.

Commander GEORGE HENRY PREBLE,
Commanding United States Steamer *State of Georgia*, Aspinwall.

[INCLOSURE 2 IN NO. 190.]

(Mr. Murray to Mr. Burton.)

UNITED STATES STEAMER "WATEREE,"

PANAMA BAY, July 24, 1865.

SIR :

I respectfully acknowledge the receipt of your letter of July 1, informing me that the President of Colombia had advised you that armed men from other States were preparing to invade the State of Panama, &c., &c.

The admiral is daily expected from San Francisco. Your letter shall be given to him upon his arrival, and in the meantime the naval force under my command shall be held in readiness to act as circumstances may require, for the protection of American interests upon the Isthmus and for the fulfillment of treaty stipulations.

I have the honor to be, very respectfully yours,

F. P. MURRAY,
Commander, &c.

Hon. A. BURTON,
United States Minister, Bogota.

Diplomatic Correspondence,
1866, Part III.
Pp. 452-453.

13th August, 1865.

(Mr. Burton to Mr. Seward.)

[No. 192.]

LEGATION OF THE UNITED STATES,
BOGOTA, August 13, 1865.

SIR :

In answer to despatch from the department, No. 124, I have to state that his excellency President Murillo has assured me that the directions given by him to the government of Panama, on May 15th, 1865, a copy of which was handed to Major General Sickles, will be observed by the authorities of that State.

An article on this subject, cut from a Washington paper (the Republican, I think, from the type), sent to the British minister here, has excited some interest at the British and French legations. The French minister had before endeavored to learn from the President the object of General Sickles' visit here, but without success; it is probable an explanation will be demanded here and at Washington. I presume the explanation of this cabinet will be according to the facts; that we are entitled by treaty stipulations to the free transit

of the isthmus for all purposes, and as a compensation for this are solemnly pledged to preserve its neutrality, property, and sovereignty to Columbia against all the world; and should any nation fail to respect the will of this republic as to the rights thus guaranteed, it will be the duty of the United States to interfere to cause it to be respected; and this, by virtue of the treaty of December 12th, 1846, and not on account of any new arrangement, concluded by General Sickles, or any one else.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

P. S. Since writing the foregoing the President said to me, in a confidential conference, that I had anticipated truly the answer he will give if called on for any explanation in regard to the matter.

A. A. BURTON.

Diplomatic Correspondence.
1866, Part III.
Pp. 458-461.

4th November, 1865.

(Mr. Burton to Mr. Seward.)

[*Extract.*]

[No. 198.]

LEGATION OF THE UNITED STATES,
BOGOTA, November 4, 1865.

SIR:

I have the honor to enclose the annexed papers relating to the proceedings of Acting Rear-Admiral G. F. Pearson, on the interment in Panama of the remains of A. R. McKee, esq., deceased, late United States consul at this city.

* * * * *

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE 1 IN NO. 198.]

(Senor Santiago Perez to Mr. Burton.)

[*Translation.*]UNITED STATES OF COLOMBIA, DEPARTMENT OF
THE INTERIOR AND FOREIGN RELATIONS,
BOGOTA, October 16, 1865.

The undersigned, secretary of the interior and foreign relations, has the honor to accompany with this communication, for the information of his honor the minister resident of the United States of North America, a copy of the correspondence which has passed between the President of the sovereign State of Panama and Rear-Admiral Pearson, and will proceed to make the following observations :

The neutrality of the isthmus, or the sovereignty of New Granada, now the United States of Colombia, over it, was guaranteed by the United States of North America in the 35th article of the treaty of 1846—our rights pertaining to Colombia, rights, the effectiveness of which it belongs to her to demand at the time and circumstances which may be convenient to her and equitable. But that guarantee of the neutrality of the isthmus and its sovereignty to Colombia does not oblige her to submit to the measures which the United States of North America, or any agent of theirs, may pretend to impose upon her in derogation of the national dignity, and not only without the requirement of the local authorities, but in spite of them.

The local authorities of the State of Panama, as agents of the national government, respected in virtue of their powers and in the fulfillment of their duties, have to maintain on the isthmus the public securities and the guarantees due its inhabitants and persons who may be transiently there.

In the discharge of their duties said authorities will employ the means at their command, and require such assistance as they may find necessary and to which they may be entitled, provided it can be so given and as stipulated. Otherwise assistance would not be real assistance, and the employment of a foreign force, although under alleged necessity or convenience, would be rather to have it imposed than asked, an act inadmissible by the legitimate authorities of that territory, and unacceptable according to the most primitive notions of public law.

Agreeably to the said 35th article, said guarantee is expressly declared to be an especial compensation for favors acquired by the United States of North America in that State.

The guarantee is, therefore, not a right pertaining to them, but an obligation, a service contracted by them; a service, it is true, which redounds to their interests, but which cannot take the character of a power or jurisdiction; but, by giving to said guarantee the interpretation implied in the pretensions of Rear-Admiral Pearson, it would be converted into an additional favor to the

United States of North America, a favor which would require on the part of Colombia the abdication of her sovereignty.

The propriety of opportunely appealing to the necessary measures to preserve in every case security on the isthmus must induce the power intrusted with its preservation—a power which represents the national sovereignty, and at the order of which, within their respective limits, agents are to be maintained, whose duty it is to lend effective assistance. Who has borne the responsibility arising from a want of order or security on the isthmus when disorders have occurred? The use, therefore, of the forces of the United States of North America for the preservation of order and the maintenance of the sovereignty of Colombia on the isthmus has to be determined by the Colombian authorities themselves, and not by the chiefs of those forces, whatever may be the apparent inconvenience, in any given case, to the latter—inconveniences to be foreseen and removed by him who is responsible for the disturbances.

Such is the understanding and grounds taken by the Colombian Government, with respect to the part in question of the treaty with the United States of North America, and it is sure that such is the understanding and views maintained by the minister resident of the United States, whom the undersigned has the honor to address and to request of him an express opinion upon the point.

The way or transit across the isthmus shall be open to the citizens and government of the United States of North America, agreeably to said article 35, but neither this nor any other article of the treaty implies the right of disembarking troops on that territory without previous notice, and then subject to the conditions of the treaty. Much less does it imply the right to disembark North American forces in order that they may go through exercises on Colombian territory, or occupy it in organized bodies or regiments in any operations whatever. The right to disembark and of transit will always be subject to the compact between the two nations, and in cases of assistance to the judgment and demand of the local authorities, who, in this particular, act as the agents of the national government.

In this sense instructions have been given to the government of the State of Panama. And it is hoped that the minister resident of North America, finding all the foregoing in strict accordance with the existing treaty, and with the well understood interests of both countries, he will be pleased to communicate his orders accordingly to the agents of his nation on the isthmus, that they may desist from and put an end to whatever pretensions they may have manifested or that they may manifest to the contrary.

The undersigned improves the opportunity to present to his honor the assurances of his high esteem.

SANTIAGO PEREZ.

HON. ALLAN A. BURTON,
Minister Resident of the United States of America.

[INCLOSURE 2 IN NO. 198.]

(Senor Jil Colunje to Mr. Pearson.)

[*Translation.*]UNITED STATES OF COLOMBIA, SOVEREIGN STATE OF PANAMA,
PRESIDENT OF THE STATE.

PANAMA, September 6, 1865.

SIR:

On the day before yesterday I, with the other public superior functionaries of the nation and State resident in the city, were prepared to attend the funeral obsequies of Mr. Alex. R. McKee, late consul of the United States of America in this place, where his death has been so justly deplored, when I perceived that a party of armed people belonging to the marine of the North American Union had disembarked, together with a band of music, in order to do due honor to the civil and military rank of Mr. McKee, and I was under the painful necessity of declining, and causing the other authorities to decline, attending said obsequies, because permission to disembark said force had not been asked of me, as the first authority of this State.

Certainly, on so solemn an occasion, nothing would have been more natural than to grant said permission, chiefly when we have no band of martial music here at present, or body of troops to contribute in giving due gravity to the ceremony; but it will be allowed that if this occurrence, which in any aspect may be unfavorably qualified under the circumstances—considered as much with reference to the cordial relations existing between the North American Union and the Colombian Union as to your undoubted sufficiency—if this act, I say, should pass unnoticed, my silence might be taken as argument hereafter for neglecting the correct usages of the law of nations. I expect, therefore, that in case it shall be necessary to disembark armed naval forces in future, it will not be done without the consent of the authorities in this place, which represent the sovereignty and independence of the nation.

I am, with due respect, your attentive servant,

JIL COLUNJE.

Admiral J. P. PEARSON,

Commanding the United States Squadron in the Pacific.

[INCLOSURE 3 IN NO. 190.]

(Mr. Pearson to Senor Jil Colunje.)

UNITED STATES FLAG-SHIP LANCASTER,
PANAMA, September 8, 1865.

SIR:

I have had the honor to receive the communication of your excellency, dated 6th instant. It informs me that your excellency and all the high functionaries

of Panama were prepared to attend the burial of the late consul of the United States, Alexander R. McKee, whose loss is so justly deplored, when you noticed a company of armed people, belonging to the marine of the United States, and a band of music besides, ready to do the honors due to the military rank and civil employ of Mr. McKee; that you then believed yourself under the painful necessity of abstaining from attending the burial, and of not permitting the other authorities to attend, because, permission was not obtained from you, as the highest political authority of the State, for the disembarkation of the above-mentioned force.

In expressing to your excellency my regret that you did not attend the funeral services of a consul so much beloved, I cannot do less than express also the impression that I have received from your objections to the presence of a marine guard with only cartridges without balls, and especially to the unarmed band of music of this boat, whose only object was to honor the remains of a consul of the United States in the city of Panama. You speak of the landing of these marines and of this band of music as contrary to the rights of nations; and you say that you had a few troops, and no band of music in the city at this time.

I know perfectly well that armed troops should never put foot on the territory of a friendly government without special permission from its chief, but in the present case, when all the city was mourning the loss of a friend, it never occurred to me that anything that I might do in honor of his memory would be taken in any other sense than joining in the general grief of all, including your excellency, and the other employees of the government.

Besides, at that time, the city was overhung with a cloud of sadness, which prevented lending attention to little forms, no one thinking of anything but in attributing to the deceased and much-loved Colonel McKee a melancholy homage, whose remains were to be immediately buried.

I will here take the liberty to assure your excellency that, in conformity with my orders to the squadron of my command, armed troops will land immediately whenever it is necessary to fulfil the stipulations of the treaty between the United States of Colombia and the United States of America, and especially when the railroad and its passengers are in danger.

You informed me that for the future you hope that when it may be necessary to land armed troops, it will not be done without the consent of your excellency.

There is not the least objection to asking this permission, but I believe it my duty to give you notice, that in case of alarm the required force of the squadron for an immediate service would probably be detained from arriving in Panama at least two hours, waiting to communicate with the city, and receive permission from your excellency.

In consideration of the conditions of the treaty, it is believed that armed troops may be landed at any moment, and our late consul and others anxiously

desiring it, I have ordered the marine troops to land when there was any danger, to protect the consulate and the naval deposit, without permission from the authorities, and I am disposed to do the same again, convinced that such conduct will not only be agreeable to the consul and naval storekeeper, but also to the President of the State, since it will contribute to the preservation of good order.

Do not think for a moment, however, that I dispute your legitimate right to wish that permission be asked, by means of an officer, to disembark armed troops in time of necessity, or to do the customary funeral honors at the death of an employee of the United States, or to land a band of unarmed musicians.

All this, besides being your lawful duty, would give me pleasure to carry it out, by means of an order to the commanders of the different vessels of this squadron.

I shall also remit to the government which I have the honor to serve a copy of your communication, and a copy of my answer, to the end that, if at any time the force under my command shall be delayed, in case of any emergency, in consequence of my awaiting your consent to the disembarkation, the censure may not be attributed to me.

I am, sir, your obedient servant.

G. F. PEARSON.

Commanding the U. S. Force in the Pacific Ocean.

September 14, 1865.

His Excellency JIL COLUNJE,
President of the State of Panama.

Diplomatic Correspondence,
1886, Part III.,
Pp. 461-467.

5th November, 1865.

(Mr. Burton to Mr. Seward.)

[No. 199.]

LEGATION OF THE UNITED STATES,
BOGOTA, November 5, 1865.

SIR :

I have the honor to enclose the annexed correspondence with the United States consuls and naval officers at Aspinwall and Panama, which relates more particularly to the late disturbances on the isthmus, of which the department has doubtless already been fully informed.

From the tenor of the note of Consul Davenport and acting Rear-Admiral Pearson, of September 26, 1865, marked G and H, I infer that my note of July 1, 1865, attached to my No. 190, and that

of August 31, 1865, (A) hereto annexed, have not been understood in the sense intended. They appear to have been interpreted by those gentlemen as instructions from me to them. Such was not my intention. When I wrote I supposed that, as a matter of course, from their proximity to Washington, they have been, or certainly soon would be, fully instructed as to their duties, on the happening of certain events for some time before expected to take place on the isthmus. My object, therefore, was to give these officers, and others near the place of anticipated disturbances, official notice of what this government expected in a given state of case, to which I ventured to add my own opinion, to go for what it was worth in itself. That they being thus advised might, perhaps, be better enabled to execute the orders of their respective departments, according to their own views of duty. In short, what I wrote was for their information, and not for their guidance, as I think the papers clearly show.

My opinion was based on that expressed under analogous circumstances in 1862. That expression was a law to me in itself, but appeared moreover to be supported by strong reasons, some of which I beg to be allowed to state in reply to the views of Consul Davenport and acting Rear-Admiral Pearson, for whose opinions I have the highest respect.

By the constitution of Colombia the individual States are sovereign and independent of each other ; as much so, both in theory and in fact, for the purpose of the present question, as Colombia and Peru.

It is the declared constitutional duty of the national government to prevent and repel, by all the means at its command, any invasion of one State by another. Such an invasion is a violation of the national sovereignty in the invaded State. This is particularly the case in the State of Panama, where certain important rights of sovereignty have been reserved to the national government, which it has not in the other States.

The invasion of the State of Panama in August last, from the State of Cauca, was none the less a violation of the national sovereignty over the isthmus on account of its want of the sanction of the latter State.

The effect was precisely the same hostility to, and the trampling on, the national right and authority, and consequently creating a state of affairs which required the national government to move in the fulfilment of its constitutional duty. This duty was in nowise

modified by the fact that some of the chiefs who led the invasion were expelled citizens of Panama.

It is understood that most of the officers, and all of the soldiers of the invading forces, were citizens of the State of Cauca; they carried no recognized flag, and were subject to no regular or recognized authority; they sought to make irregular war on the people and recognized legitimate government of a State which the general government was bound to protect against such incursions, and were therefore not inaptly characterized as bandits. To require the forcible intervention of the national government, it was enough that hostilities came from without the limits of the State of Panama.

The circumstance that the invaders came in a vessel carrying the colors of a foreign nation, instead of taking from the invasion its unjustifiable character, was calculated to inspire greater alarm and called for greater energy on the part of the government of the nation.

This being the duty of the Colombian government, the only inquiry is how far the United States are bound to aid in the performance of that duty.

To an accurate solution of this question, it is not deemed necessary to controvert the deduction of inconvenience drawn by the consul and acting rear admiral from the interpretation of the treaty for which I contend. These are rather specious in the abstract than applicable to the true issue.

It will be sufficient to consider the single point on which they rest their argument, as a correct answer to the inquiry must necessarily spring from the justice or fallacy of their conclusions, there being no intermediate ground on which to base a third.

The point of departure in the argument advanced by them is the force given to the words of the 35th article of the treaty, "with a view that free transit of the isthmus may not be interrupted," and the conclusion reached, that the obligation contracted by the United States is coextensive only with the view declared.

This, at first sight, has some claim to plausibility, but is plausible only. Had the treaty stopped here, leaving no other clue to the limits of the obligation, the inference drawn would not have been entirely wanting in force. But the treaty itself fixes unmistakably, without leaving anything to interpretation or conjecture, precisely what is to be done in order to fulfil that obligation and to effect the object in view—the securing by the United States to Colombia of a perfect neutrality of the isthmus, and in like manner her sovereignty

and property in that territory; not partially or of the transit alone, but of the whole isthmus, and that perfectly. If the transit only was to be thus secured, it would have been more natural and logical to have said so and no more, by employing words more precise and in harmony with the idea intended to be expressed.

To thus limit the duty imposed by the treaty on the United States does violence to that part of it which, in plain and appropriate words, extends the guarantee of perfect neutrality, sovereignty and property to the whole territory of the isthmus, "from its southernmost extremity until the boundary of Costa Rica," and consequently at the same time renders superfluous, meaningless and inoperative no inconsiderable part of its language—a supposition not to be attributed to the negotiators of so important an agreement and their governments, who ratified it in the entire absence of ambiguity or unreasonableness. Besides, a named view or object of the guarantee is of subordinate importance, and must yield to the explicit and unconditional terms of the guarantee itself.

It is a legitimate presumption, not to be repelled or weakened by time or subsequent changes, that the contracting parties had fixed and well-defined ideas of, and specified accordingly, what acts should constitute a compliance with the obligations into which they were entering; and although such acts may now appear disproportionate to the end to be achieved, it is not for one party to disregard or diminish them without the consent of the other.

This inclination to define runs through the entire treaty— is one of its notable features; and a wise one, as it tends to avert misunderstanding, and consequently to make more efficacious its stipulations.

Many other convenient objects, not necessary or politic to have been declared, and which neither party was bound to disclose, may have induced one or both to enter into the compact.

There are patent and forcible reasons for this supposition as to Colombia. This part of her territory is remote and almost detached from the rest of the republic. It is of the highest importance to the world, and she might well have apprehended that it was looked to with a covetous eye by stronger powers. It is difficult of defence, and she had not the means of defending it. The inhabitants were but partially civilized, and its quiet and order imposed on her a weighty responsibility.

Well might Colombia, with her sad internal revolutionary experience and menaces from abroad, have feared that the presence of

any body of men, from anywhere, operating hostilely to her rights and authority on any part of that peculiar territory, and especially such a body as that which invaded it from Cauca, would be dangerous not to this part alone, but to the republic itself; and therefore have sought a stipulation from the United States, which would be likely to preclude all possibility of consequences so disastrous to her security and welfare.

Furthermore, the treaty pre-supposes that the tranquil and constant enjoyment of the advantage secured by it on the isthmus to the United States is to redound chiefly to the interest of the latter. The view, then, of keeping the transit uninterrupted, and which the United States are permitted to do, is in effect a permission to them to protect their newly acquired rights on Colombian soil (the free transit of the isthmus being the principal one), and is in reality one of the privileges conceded to the United States, as conducive to the full enjoyment of those rights for their own benefit, and cannot in any sense be regarded as a burden to them.

But as a compensation for granting these rights and privileges, and for other important concessions made to the United States by Colombia, in articles 4, 5 and 6 of the treaty, the former take upon themselves, in turn, the burden of guaranteeing to the latter the perfect neutrality, sovereignty, and property of the whole isthmus, which Colombia, whether with or without cause is immaterial, imagined was, or might be, dangerous.

She has paid for this security, and the United States have accepted and enjoy a consideration mutually agreed upon, as adequate and just, and the view or objects, many or few, which may then have moved Colombia to purchase the right to, or that may now influence her to ask for the lawful enjoyment of the benefits resulting from her agreement, cannot concern the United States, or excuse them for failing to comply with the plain duty to which they have bound themselves.

Another feature of the guarantee is not to be overlooked. It extends to "all the rights of sovereignty and property which New Granada (now Colombia) has over the said territory."

At the date of the treaty the now State of Panama was simply a canton of the republic, over which the national authority was supreme.

Whether, therefore, an invasion of the isthmus of Panama, or even an internal movement which puts in jeopardy the rights guaranteed to Colombia in that territory, does or does not endanger the

freedom of the transit, would seem in no case to be a material or open question. It is concluded by positive stipulation.

This appears to be the clearly expressed meaning and spirit of the treaty.

The duty assumed by the United States may be inconvenient, embarrassing, and even onerous; it is nevertheless one which, when required to do so, they cannot fail to respect without dishonor, so long as they retain the corresponding benefits ceded by Colombia.

No notice has been communicated to me by this government of the occurrence mentioned in the annexed letter of Vice-Consul Robinson.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE 1 IN No. 199.]

(Mr. Burton to Mr. Henry Preble et al.)

LEGATION OF THE UNITED STATES,
BOGOTA, August 31, 1865.

SIR :

His excellency the President of Colombia advised me to-day that a body of armed men, whom he characterized as bandits, had recently sailed from the port of Buenaventura, in the State of Cauca, for the purpose of invading and making war against the State of Panama, and expressed his hope that the United States would fulfil what he considered their duty, by preventing this or any other hostile party or individuals from landing within the limits of that State, and employing the necessary force to expel such, in case a landing should be effected, as their presence will necessarily endanger the safety of the transit of the isthmus, and the property and lives of American citizens.

In expressing my concurrence in this opinion of the President, I have to add, that in case the present authorities of Panama should be forcibly overthrown by the aid of persons coming from other States, citizens of the United States ought to refuse to submit to the exaction of any contribution by any person or authority in that State, until such change be recognized as legitimate by the

Colombian government, and that such refusal should be sustained by force if necessary.

I am, sir, your obedient servant,

ALLAN A. BURTON.

Commander GEORGE H. PREBLE,
Commanding U. S. Steamer *State of Georgia*, Aspinwall ;
United States Admiral, Panama ; and
United States Consuls at Aspinwall and Panama.

[INCLOSURE 2 IN NO. 199.]

(Mr. Pearson to Mr. Burton.)

UNITED STATES FLAG-SHIP *Lancaster*,
PANAMA, August 21, 1865.

SIR :

I have the honor to acknowledge the receipt of your communication of July 1st, 1865, stating that the President of Colombia had informed you that he was advised that armed men from other States were preparing to invade the State of Panama for the purpose of making war against its authorities and people.

I shall at all times be ready to carry out the treaty stipulations between the governments of the United States and of Colombia ; and should an armed force from other States invade Panama with the intention of making war against its authorities and people, I shall, on the request of General Gutierrez, render him such assistance as may be in my power at the time for the purpose indicated.

I shall take especial care, however, that assistance is not rendered for any of the internal political troubles of the State of Panama, further than for the protection of our citizens residing here, and their property.

I am, sir, very respectfully, your obedient servant,

G. F. PEARSON,

Acting Rear-Admiral, Commanding Pacific Squadron.

His Excellency, ALLAN A. BURTON,

Legation of the United States of America, Bogota, N. G.

[INCLOSURE 3 IN NO. 199.]

(Mr. Robinson to Mr. Burton.)

UNITED STATES CONSULATE,
ASPINWALL, August 25, 1865.

SIR:

Your kind favor, marked private, reached me on the 11th instant, since which time I have been confined by illness, and am still very weak.

Mr. Rice will be back on the 10th of September.

The revolution in this State has not come to any decided issue as yet, although we expect to hear something decisive each day.

I enclose the last *Panama Star and Herald*.

General business on the isthmus is pretty much suspended for the present.

The steamer *Costa Rica* arrived from New York this morning, enabling me to forward your mail by this opportunity.

The *State of Georgia*, Captain Preble, has been relieved by the *James Adger*, Captain McDiarmid.

On this side of the isthmus all is quiet. Your enclosures were sent forward.

I remain, very respectfully, your obedient servant,

TRACY ROBINSON.

HON. ALLAN A. BURTON,
United States Minister.

[INCLOSURE 4 IN NO. 199.]

(Mr. Robinson to Mr. Burton.)

UNITED STATES CONSULATR,
ASPINWALL, August 31, 1865.

SIR:

The United States gunboat *James Adger*, Captain McDiarmid, sailing hence to Cartagena to-morrow, affords me an opportunity of addressing you this note and of enclosing to-day's *Panama Star and Herald*, from which you will see that the revolution is progressing rather slowly.

It is yet impossible to say how the affair will terminate.

United States government troops are now being passed over the isthmus, *en route* for California.

The fourteenth regular infantry arrived here per steamship, April 25th instant, when the steamer was allowed to come alongside the wharf, to remain with the troops on board over night. The result was, although I wrote a note to the commanding officer requesting him to prevent any of the men from landing, quite a number escaped the guard, came on shore, became intoxicated and created considerable disturbance.

Some of the small drinking shops belonging to British subjects, were entered, and, I have been informed, taken forcible possession of; so that the British vice-consul informed me he has been since applied to for redress and restitution from our government. No claims have yet been presented to me, however.

The local authorities were very much incensed at the affair.

Small parties of our troops, with guns and fixed bayonets, were going about

the streets during the night, under the pretence, I am told, of picking up stragglers, taking matters into their own hands for the time being.

Yesterday the government transports *Benjamin Deford* and *S. R. Spaulding* arrived here with the second United States artillery, 648 men, on board for transportation to Panama and San Francisco.

In order to avoid, if possible, the recurrence of the former trouble, I addressed a note to the commanding officer, requesting him not to permit, under any circumstances, the landing of any portion of the men until the cars were ready to embark them at once for Panama.

In reply to my note the general commanding, who I have heard is General French, has dictated a note to the effect that he will do as he pleases, or, to use his own words, "the general commanding will consult what he deems most necessary for the interest of his command in the matter."

I will only add, that if officers in command of our troops in crossing this isthmus do not keep them in subjection, so as to prevent outrages upon the people here, we may expect trouble.

I have not written the government about the matter, preferring to await the return of Mr. Rice, who will be here on or about the 10th instant.

I beg to remain your obedient servant,

TRACY ROBINSON, Vice-Consul.

Hon. A. A. BURTON,

United States Minister, &c., Bogota.

[INCLOSURE 5 IN NO. 199.]

(Mr. Davenport to Mr. Burton.)

CONSULATE OF THE UNITED STATES,
PANAMA, September 26, 1865.

SIR :

Your letter, No. 74, addressed to the late Colonel McKee, United States consul at this port, has been received. You have doubtless ere this learned of the death of that excellent man, and my appointment as acting consul until the pleasure of the government should be known.

In forwarding a copy, as requested by you, to the State Department, I embraced the opportunity to call the Secretary's attention to the construction put upon the 35th article of our treaty with New Granada by the President of the United States of Colombia, as well as your coincidence of opinion with that functionary.

As I do not by any means agree with either of you as to the duties of naval officers to use force to prevent one party from a hostile attempt against another, particularly as the normal condition of this State seems to be revolutionary, I

have asked Mr. Seward for an expression of the views of our government and its construction of the obligations devolving upon us under the said article.

It will be observed that the United States, under that article, guarantees a perfect neutrality of the isthmus to New Granada, the United States of Colombia, with the *view that the free transit from one to the other sea may not be interrupted or embarrassed.*

The United States have nothing to do with the civil wars or revolutions which everlastingly affect this State of Panama, so long as the transit from one to the other sea be not interrupted ; neither has it anything to do in the way of interfering between parties belonging to any of the States which collectively constitute the republic of New Granada, or what is now called the United States of Colombia, so long as neither party interrupt the Panama railroad, its passengers, &c., &c.

Further, I apprehend that neither party will disturb the transit, though both make that the cry to the opposite party which may be out of power.

I presume it is a matter of perfect indifference to our government whether Mr. Jil Colunje or Calanche represents the sovereign State of Panama, so long as our rights and privileges under the treaty be not disturbed ; and I trust the State Department will clearly define those rights, and not leave it to the various functionaries of our government, civil and naval, to predicate action upon that which the government at home might consider an erroneous construction of our treaty, as well as our obligations under it.

I am sir, very respectfully, your obedient servant,

H. K. DAVENPORT,
Commander, Acting Consul.

Hon. A. A. BURTON,
Minister Resident, &c., &c., Bogota.

[INCLOSURE 6 IN NO. 199.]

(Mr. Pearson to Mr. Burton.)

UNITED STATES FLAG-SHIP *Lancaster*,
PANAMA BAY, September 26, 1865.

SIR :

I am honored by your communication, No. 2, of August 31, 1865, stating that the President of Colombia had advised you that a body of armed men whom he characterized as bandits, had recently sailed from the port of Buenaventura, in the State of Cauca, for the purpose of invading and making war against the State of Panama, and expressed his hope that the United States would fulfil what he considered their duty, by preventing this, or any other hostile party or individuals from landing within that State.

Article 35 of the existing treaty between New Granada, now the United States of Colombia, and the United States, guarantees to the former perfect neutrality of the isthmus, with the view that the free transit from one sea to the other may not be interrupted or embarrassed, &c.

This, in my opinion, contains the whole gist of the requirements of the United States, not to the State of Panama, but to the United States of Colombia. Consequently, should the free transit from one sea to the other be endangered, then, and then only, is the commander of the United States naval forces in the bay of Panama to land an armed force to carry out, in good faith, the terms of the treaty as expressed in article 35 of said treaty.

Should an armed force from without the limits of the United States of Colombia land at either end of said transit, with a view to prevent the running of the railroad, or should any force whatever assail said road, or the transit of passengers thereon, then the United States naval forces here would prevent any such molestation to the utmost extent of its power, and would support and sustain the authorities of Panama in the free transit of passengers from one sea to the other.

The force under my command has nothing to do with the insignificant force to which you refer as being about to invade Panama from another State of the United States of Colombia—a force under the auspices of the late president of Panama, Calancha, and for the sole purpose of restoring him to the place from which he was summarily deposed, unless the said force interrupt the free transit of the railroad from one sea to the other ; nor has the force under my command any authority to prevent the passage from one place to another of a Peruvian vessel, with or without passengers, while Peru is at peace with the United States, unless the said passengers land and molest the railroad, when, of course, I shall attack them at once. But, sir, none of these people have any designs upon the railroad.

Whoever may be placed in power at Panama will be but too happy to facilitate the free transit of the railroad, as its passengers and its freight afford a convenient and lucrative commerce to its citizens.

It is only a mob of outcasts who may be expected to assail the Panama railroad, and for this the United States naval force here is always prepared, as a vessel of war is always stationed here for that purpose.

I look upon the word “view” in the 35th article of the treaty as the key to the whole article, “with a view that the free transit from one sea to the other may not be interrupted.”

These comprehensive words are explicit, and in my opinion convey to every officer of the United States government at Panama precisely the course to be pursued by him.

As to the state quarrels as to who shall be president, they are but the local pretensions for office and emoluments, and are not at all likely to interfere with the neutrality of the isthmus.

As to the forced loan, should the government here be overthrown, I shall of course protect any American who refuses to pay it, until the said government has been confirmed by the general government.

We have always one ship of war here, but she is never to send her men beyond the line of the railroad while I am here, and, in my absence, the senior naval commander will comply with my orders, to see that the railroad is protected, and will also give protection to all American citizens and property in Panama.

As we differ materially in our construction of the 35th article of the treaty, I shall forthwith forward a copy of your official letter, with a copy of this response, to the Navy Department, in order to be informed if I am wrong in the matter.

I have the honor to be, sir, most respectfully, &c.,

G. F. PEARSON,
Admiral, Commanding Pacific Squadron.

Hon. A. A. BURTON,
Minister Resident of the United States,
Bogota, United States of Colombia.

[INCLOSURE 7 IN NO. 199.]

(Mr. Burton to Mr. McDearmid.)

LEGATION OF THE UNITED STATES,
BOGOTA, October 29, 1865.

SIR:

I have the honor to be informed by your communication, dated August 13, 1865, of your arrival at Aspinwall, in command of the United States steamer *James Adger*, in relief of Commander George Henry Preble, lately commanding the United States steamer *State of Georgia*, at that port, and of your readiness to lend co-operation in the protection of American interests on the isthmus.

Thanking you for your timely information and offering my best co-operation in the duties with which you are commissioned, I am,

Very respectfully, your obedient servant,

ALLAN A. BURTON.

JOHN MCDIARMID,
Acting Volunteer Commander,
Commanding U. S. Steamer *James Adger*, Aspinwall.

[INCLOSURE 8 IN NO. 199.]

(Mr. Burton to Messrs. Davenport and Pearson.)

(Private.)

BOGOTA, October 31, 1865.

SIR :

I have the pleasure to acknowledge the receipt of your official communication and esteemed private note of September 26 last. As the matter treated of has doubtless already received the attention of our government, no official expression on my part is necessary.

When I wrote, I supposed you had full instructions. I deemed it prudent, however, to simply state for your information the demands of this government under our treaty.

My concurrence with the President of Colombia was based on the proposed action of our government in 1862, under analogous circumstances, without reference to any private opinion of my own.

I beg to add that I regard the course pursued by Acting Rear-Admiral Pearson and yourself as both judicious and fortunate.

I am, sir, very respectfully, your obedient servant,

ALLAN A. BURTON.

H. K. DAVENPORT, Esq.,

United States Consul, Panama.

Acting Rear-Admiral G. F. PEARSON, &c., &c., Panama.

Diplomatic Correspondence.
1866, Part III.
Pp. 507 to 514 Inc.

6th February, 1866.

(Mr. Burton to Mr. Seward.)

[No. 217.]

LEGATION OF THE UNITED STATES,

BOGOTA, February 6, 1866.

SIR :

The Colombian congress commenced its annual session on the 1st instant. On the 3d General Mosquera was declared elected President of the republic for the term to commence on the 1st of April next, when he will be inducted into that office for the fifth time. He will arrive here from Europe about the 1st of March. It is not expected that the Congress will enter on any important business before his inauguration, although the country is much in need of legislative action. The congress is composed almost entirely of Mosquerista branch of the liberal party, and the members are understood to be well disposed towards our country.

The message of President Murillo, a copy and translation of which I enclose—see also, "Diario Oficial," No. 551—will be found a statesmanlike paper, and is generally satisfactory. * * *

The part of the message which relates to the isthmus may be regarded as highly important to our government, and in my judgment demands prompt and attentive consideration. This people, morbidly sensitive and jealous in all that may affect its dignity or sovereignty, is especially so with respect to that section of its territory. The proceedings of Acting Rear-Admiral Pearson, Commander MacDiarmid, General French and Consul Rice, as they have been reported, and of which I gave some account in my Nos. 198, 211 and 212, have produced a feeling here which is to be regretted. This feeling does not extend to our government, but is confined to the alleged conduct of these officers. It is due to them to say that no definite or authentic information has reached me justifying the complaints made against them. The evidence in support of the charges which I have seen has appeared to me partial, and too incomplete to justify any decisive action until after further inquiry into the facts.

Our relations with the isthmus, arising out of the 35th article of the treaty of 1846, are the object of jealousy and envy on the part of Great Britain and France. As anticipated in my No. 192, explanations have been asked by her Majesty's chargé d'affaires as to the conditions under which British troops can be allowed to cross the isthmus. This move was probably intended to call out the result of General Sickle's mission, about which the Colombian government has maintained entire secrecy. The government has experienced some embarrassment on the subject, but its answer, contained in the foreign secretary's report, pages 105 and 106, herewith enclosed, will, I believe, be found satisfactory to our government. I feel fully justified in the opinion that both these powers would be gratified to see an end put to this article of the treaty, while neither is perhaps willing to enter into a similar one. It is not likely that Colombia will decide to give the stipulated notice for its termination. In connection with this subject I beg to refer you to my No. 143 of January 16, 1865.

The concession recently made to an English company for the construction of a canal across the isthmus is an important measure. (See report of the secretary of "Hacienda i Fomento," pages 64 and 114, hereto annexed.) I happened to know that an English company was preferred to others, for the reason that any danger of an undue preponderance of our influence on the isthmus will be thereby

guarded against. I doubt the real purpose of the grant, and suspect it will turn out a bubble. Mr. Daniel H. Teller, of New York City, has an agent here seeking a like privilege by a different route, but it is not likely that he will succeed.

British influence has been potent in this nation from its origin. Should that far-seeing people undertake the construction of this canal in good faith, and a diminution of our treaty rights be brought about, serious inconveniences might result to us. A formidable agency to this end, is British capital. Substantially the whole of the Colombian foreign debt is held by British subjects, who have pledged as security $37\frac{1}{2}$ per cent. of the Custom House receipts, which little more than pays the interest. This indebtedness has been considerably increased within the last five years, and there is a fair prospect that it will soon be greatly augmented by new loans and investments under the protection of the British government for projected roads, &c., which the wants of the country do not require, and which cannot redound to its interest. While it is not to be doubted that Colombian sympathy for the United States is strong, this control of her resources by Great Britain has heretofore been, and will long continue to be, a power difficult to combat. The wisest and most anxious Colombian statesman is unable to see where this power is to end; for the reduction of the public debt, or even a check to its increase, it is to be feared, is beyond the reach of the present or probable future capacity of the country. The want of administrative ability, integrity and patriotism is calculated to inspire gloomy doubts of the final solution of the financial problem, without grave evils to the country.

In my No. 47 I reported a conversation held with an eminent politician of this country in relation to a project—separation of the State of Panama from the republic. This idea still exists with the people of that State. The federal government is not without fears of its ability to hold this part of its territory in subjection, and contributes \$50,000 a year, nominally to aid in sustaining the local government, but really to attach the inhabitants to the confederation. The latter have an idea that once free from the interior, for which they have a strong aversion, and under the protection of a strong power, they would own the national interest in the railroad, establish custom houses, and thus enjoy an abundance which are not inclined to acquire by industrial pursuits. Were the guarantee of our treaty abrogated, and the Pacific road completed, it is hardly to be expected that Great Britain or France would look with dis-

favor on such an enterprise, which if opportunely undertaken, the chances would be largely in favor of its successful accomplishment.

These considerations, though in part speculative, have seemed to me not entirely unworthy of attention, taken in connection with the helplessness of Colombian finances.

* * * * *

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE 1 IN No. 217.]

(Message of the President of the United States of Colombia to the Congress of 1866.)

[*Translation.*]

Citizens, Senators and Representatives:

* * * * *

Although the crime of the 14th of April, 1865, in Washington, snatched from us, in the virtuous Abraham Lincoln, a true and kind friend to our people the American government has continued to treat us with great deference and sympathy. The guarantee of sovereignty and neutrality which is promised us by the treaty of 1846, in exchange for the privilege of passing troops across the isthmus, has truly given rise to serious difficulties, because not all the agents of that government in the ports of the isthmus, and on the isthmus itself, possess the intelligence and morality, which the use of this concession implies. Grave wrongs have been committed by a soldier and commander of a war vessel, and by the military in transit over the isthmus, for which I have not the least doubt that the American government will give us due satisfaction, and adopt for the future the proper precautions to avoid their repetition.

This treaty, which guarantees the neutrality and property of the isthmus, and concedes its free transit to the American government, will expire in 1868, should either party so notify the other one year before the expiration of the time signified. It is fit that you should discuss whether or not it will be convenient to continue that guarantee, with the consequences that may attend it, at a period more or less distant.

* * * * *

By virtue of legal authority, after discussing and comparing divers projects, and without losing sight of the advantages and political dangers that may arise, I agreed to the grant of a privilege for the construction of an interoceanic canal across the isthmus of Darien. Any commentary or calculation touching

the benefits which such a work would bring to the nation and to the world would be inadequate and foreign to this paper. I am satisfied that the simple announcement that the work is to be undertaken will be gratifying in a high degree to your patriotism.

MANUEL MURILLO.

BOGOTÁ, February 1, 1866.

Diplomatic Correspondence.
1866, Part III.
Pp. 514 and 515.

7th February, 1866.

(Mr. Burton to Mr. Seward.)

[No. 218.]

LEGATION OF THE UNITED STATES,
BOGOTÁ, February 7, 1866.

SIR :

Until receipt on to-day of your despatch No. 135, dated December 20, 1865, I was not aware of my omission to send to the department a copy of my note in answer to that of the foreign secretary of October 16, 1865, complaining of Acting Rear-Admiral Pearson's proceedings at Panama, on September 4, 1865. I now hasten to enclose it, marked A.

I am deeply sensible of the honor implied in the determination of the department to await my further views in this matter before giving instructions to direct my action concerning it. I will venture to comply with the delicate duty imposed by stating that after carefully considering the Acting Rear-Admiral's note to the President of Panama I have not been able to discover anything in its substance in conflict with a fair interpretation of the 35th article of our treaty. It would perhaps have been more politic had he confined his note to the explanation given of the circumstances which led to his attending the funeral of Consul McKee without asking permission. This ought to have satisfied the President, whose own behavior was by no means attentive or decorous. It appears to me, therefore, that the government of the United States might, with good effect and without compromising any substantive right, express to Colombia its regrets that any misunderstanding as to their respective rights and duties should have arisen between the subordinate agents of the two governments, attributable, doubtless, to anomalous circumstances, and unpremeditated, and that, to avoid the possibility of like painful occurrences in future, orders had been given to the United States naval officers on both sides of the isthmus

to carefully abstain from landing marines or troops on its territory without the consent of the Colombian government, first obtained from its agent at Panama or Aspinwall, except for the purpose of transit, or in case of the obstruction of the railroad, or of extraordinary violence to American citizens, from which they shall be in imminent danger of suffering great harm, and provided there shall be no other available means of shielding them from impending peril ; which orders to be also communicated to the United States consuls at the termini of the road for their guidance. Some mark of respect to the President of Panama, purely ceremonial, and which would not imply the admission of intentional wrong on the part of Rear-Admiral Pearson, might be judicious. I venture to add that in my opinion discussion of the points taken in the secretary's note had as well be avoided at present, without admitting them.

From various informal conversations held with the foreign secretary, I feel quite sure that the Colombian government does not expect more than this, and I believe less. At any rate, I hesitate not to say that it would be well received, and go far towards allaying any jealousy or irritation that may have grown out of the occurrences mentioned in my Nos. 198, 211 and 212. We ought, perhaps, without making it a precedent, to pay Mr. Heady the damages done him by our soldiers. As to his case and the killing of George Holmes, I shall await the directions of the department. I beg to suggest that, owing to my great distance from the isthmus, the department institute direct inquiries into these cases.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Diplomatic Correspondence.
1866, Part III.
Pp. 594 and 595.

16th March, 1866.

(General Salgar to Mr. Seward.)

[*Memorandum.*]

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of Colombia at Washington, moved by convictions of the importance of an interoceanic ship canal across the isthmus of Darien, and especially that portion of it known as the isthmus of Panama, to the best interests of the world, and especially,

to this continent, has the honor to offer the following proposals to the Secretary of State of the United States, subject to the approval of his own government.

1st. The United States of Colombia willingly accedes to the exploration and survey of any portion of the aforesaid territory by the United States of America, in order to determine the best topography for such canal.

2d. Colombia will zealously co-operate for this end, and will give to any expedition as aforesaid all the authorization, aid, and comfort within its power to facilitate its object.

3d. The Colombian government, having in view the obstacles opposed to the task through hostile Indians, grants the United States the privilege to unite with the expedition a force sufficient for its protection therefrom, conceding thereto the privileges which an army has when marching by permission through a friendly State, and the right of self-defence, it being understood that said force shall not exceed 150 men, rank and file, unless actual forcible resistance by hostile Indians or others shall render an increase necessary, and this not to exceed 500 men more. This force is not to remain in the country longer than the said survey may require, nor be employed for any other object whatever.

4th. The United States of Colombia will supply the expedition with all the maps, charts, surveys, reports, plans, or information whatsoever in its possession which the engineers may deem calculated to facilitate their labors, and which may be consonant with existing obligations of Colombia.

5th. It is understood that the expenses of this exploration, except as otherwise stipulated, shall be borne exclusively by the United States.

6th. In consideration of the premises the United States of Colombia grants to any organized company of citizens of the United States of America, or its agents or assigns, the right of priority or preference to construct and use an interoceanic ship canal within and across the aforesaid territory, with all the necessary lands and collateral privileges to render the same effective, as may be hereafter agreed upon as satisfactory to the United States of Colombia and the company aforesaid, so that if by virtue of said survey said work is to be undertaken upon the same terms, any company as aforesaid shall have the preference over any other company whatsoever. It being understood that if, after the expiration of the three years assigned for the completion of the survey, as pre-

scribed in the next article, the said survey has not been made, or if it does not favor the undertaking, or if another survey be on such account deemed necessary and executed by direction of the Colombian government, then, and in any one of such cases, this privilege or priority, or preference, in favor of citizens of the United States of America shall terminate.

7th. The exploration aforesaid is to be commenced within a year, and to be finished within three years from the date of the confirmation hereof by the two governments.

8th. It is agreed that the engineers in charge of the survey shall make the same identical reports upon the progress and result of their labors to the government of Colombia as they shall make to the government of the United States of America, accompanying them with the same illustrations, maps, charts, drawings, &c.

9th. Upon receiving a reply to this memorandum, the undersigned will promptly submit the subject to the consideration of his government, that confirmatory action may be taken thereon by the present Colombian congress, thus expediting the enterprise.

EUSTORJIO SALGAR.

WASHINGTON, March 16, 1866.

Diplomatic Correspondence.
1866, Part III.
P. 595.

19th March, 1866.

(Mr. Seward to General Salgar.)

DEPARTMENT OF STATE,

WASHINGTON, March 19, 1866.

SIR:

I have the honor to acknowledge the receipt of the memorandum of the 16th instant, relative to the construction of an interoceanic ship canal across the isthmus of Darien, which you were pleased to submit to me.

Having taken the President's views thereon, I beg to inform you, in reply, that if the proposition, in the form in which you have presented it, shall be sanctioned by the government of Colombia, through the requisite treaty stipulations, the United States will accede thereto, subject, however, to the ratification of the Senate.

I avail myself of this occasion to renew the assurances of my distinguished consideration.

WILLIAM H. SEWARD.

Senor DON EUSTORJIO SALGAR, &c., &c., &c.

47th Congress, 1st Session.
Senate Ex. Doc. No. 194.
In Vol. 6.

25th April, 1866.

(Mr. Seward to Mr. Adams.)

[No. 1745.]

DEPARTMENT OF STATE,
WASHINGTON, April 25, 1866.

SIR: Towards the close of Mr. Polk's administration the British government, disturbed, perhaps, by the recent acquisition of territory by the United States on the Pacific, showed what we thought to be a disposition to contend with the governments of the Central American States, with the ultimate object, as was supposed, of acquiring dominion there, and also a control of any ship canal which might be made between the two oceans by the way of the San Juan river and Lake Nicaragua. British subjects had long before that time lent those governments money, the interest on which was in arrears, chiefly in consequence of the strife between the States which ensued upon their separation and as a confederacy.

War measures were determined upon to recover this interest; among others the seizure of the island of Tigre, belonging to Honduras, in the bay of Fonseca, was made by a British naval force in October, 1849.

This seizure was protested against by Mr. Squier, the United States Chargé d' Affaires in Nicaragua, and a disavowal of the proceedings by the British Government was required by Mr. Clayton in an instruction to Mr. Abbott Lawrence, at London, of the 29th of December, 1849.

Insomuch as one route (by some supposed the best route) for the ship canal from the lake to the Pacific lay along the Esteroreal, which empties into the Bay of Fonseca, near Tigre Island, Mr. Squier deemed himself warranted in incorporating in a general commercial treaty with Honduras, which he signed on the 28th of September, 1849, provisions for acquiring land for naval stations on that island or on the continent in its vicinity. By what is called a protocol, of the same date, Honduras ceded Tigre Island to the United States, pending the ratification or rejection of the general treaty, provided that the time should exceed eighteen months.

These stipulations were entered into by Mr. Squier without instructions from the Department, and when the treaty and additional articles were received, he was reproved for them. They were never laid before the Senate. It is not to be doubted, however, that they

occasioned uneasiness to the British Government, and in a great degree led to the Clayton-Bulwer treaty of the 19th of April, 1850.

The preamble of that treaty states that its object was to fix the views and intentions of the parties in regard to the ship-canal.

The first article of the treaty, still referring to the ship-canal, stipulates that neither party will erect fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise dominion in any part of Central America.

It seems obvious that the renunciation by the parties to this instrument of a right to acquire dominion in Central America was intended to prevent either of them from obtaining control over the proposed ship-canal. At the time the treaty was concluded there was every prospect that that work would not only soon be begun but that it would be carried to a successful conclusion. For reasons, however, which it is not necessary to specify, it never was even commenced, and at present there does not appear to be a likelihood of its being undertaken. It may be a question, therefore, supposing that the canal should never be begun, whether the renunciatory clauses of the treaty are to have perpetual operation.

Technically speaking, this question might be decided in the negative. Still, so long as it should remain a question, it would not comport with good faith for either party to do anything which might be deemed contrary to even the spirit of the treaty.

It is becoming more and more certain every day that not only naval warfare in the future, but also all navigation of war vessels in time of peace must be by steam. This necessity will occasion little or no inconvenience to the principal maritime powers of Europe, and especially to Great Britain, as those powers have possessions in various parts of the globe where they can have stores of coal and provisions for the use of their vessels. We are differently situated. We have no possessions beyond the limits of the United States. Foreign colonization has never been favored by statesmen in this country either on general grounds or as in harmony with our peculiar condition. There is no change or likely to be any in this respect. It is indispensable for us, however, to have coaling stations under our own flag for naval observation and police, and for defensive war as well as for the protection of our widely spread commerce when we are at peace ourselves. This want, even for our commercial marine, is nowhere more sensibly felt than on the track between Panama and San Francisco. The question then occurs

what points beyond our jurisdiction would be most eligible for this purpose?

Whatever opinion might be entertained in regard to any other sites, there would be no question that Tigre Island would be exceedingly desirable for that purpose.

Under these circumstances, you will sound Lord Clarendon as to the disposition of his government to favor us in acquiring coaling stations in Central America, notwithstanding the stipulation contained in the Clayton-Bulwer treaty. In doing this, however, you will use general terms only, and will by no means allow it to be supposed that we particularly covet Tigre Island. You will execute this instruction at such time and in such way as to you may seem best and inform the Department of the result, so that the United States Minister to Honduras may be directed to proceed accordingly.

It is supposed that you may probably be able to introduce the subject to the Earl of Clarendon's attention by suggesting that a negotiation with a view to the special end mentioned might be made an element in a general negotiation for settlement of the northwest boundary question and of the conflicting claims of the two countries which have arisen during the late rebellion in the United States.

I am, &c.,

WILLIAM H. SEWARD.

[*The above letter appears as Document 63, in Special Message of President, 29th July, 1882, pp. 155-157.*]

Diplomatic Correspondence.
1866, Part III.
Pp. 526-531.

30th April, 1866.

(Mr. Seward to Mr. Burton.)

[No. 139.]

DEPARTMENT OF STATE,
WASHINGTON, April 30, 1866.

SIR:

I have the honor to acknowledge the receipt of your despatch of November 4th, No. 198. It is accompanied with several papers which relate to certain proceedings which were taken by Acting Rear Admiral G. F. Pearson, of Panama, on the occasion of the burial of Alexander R. McKee, Esq., deceased, late United States consul in that city.

In answering that despatch I shall have occasion also to notice matters which are presented in your previous despatch of the 1st of November, No. 195.

Alexander McKee, Esq., late consul of the United States at Panama, departed this life on or about the 1st of September last. His death appears to have been profoundly lamented by the authorities of the United States of Colombia at that place, as well as by the citizens and naval agents of the United States who were residing there or were on duty in the vicinity. A stranger in a foreign country, it was natural that his countrymen who were thus sojourning there should be moved to pay to his remains the customary duties of tenderness and respect.

So far as the facts can be ascertained from the papers now before me, it does not appear that the public authorities of Colombia, or those of the State of Panama, assumed to themselves the performance of any duties whatever in relation to the funeral obsequies of the deceased. I am left at liberty to suppose that the preliminary arrangements for those obsequies were made exclusively by private and unofficial parties who had been acquaintances of the consul. It does distinctly appear that the authorities of Colombia or those of Panama made no communication whatever concerning the occasion to Rear-Admiral Pearson, who was then on board the ship *Launceston* in the port of Panama, and in command of the United States squadron in the Pacific.

The funeral was appointed for the 4th of September. In the morning of that day, and at the hour appointed, Admiral Pearson landed from his flag-ship, attended by a small marine guard, provided with cartridges without balls, and an unarmed band of music, which unarmed band and practically unarmed guard were attached to the naval service on board the flag-ship. The rear-admiral's object in landing the marines and the band was to pay the customary naval honors to the remains of the deceased consul. The admiral, however, had given no notice to the authorities at Panama, state or federal, of his purpose or desire to pay those honors in that form. The obsequies proceeded, the naval honors were paid by the admiral, together with the marines and band, and all are understood to have then returned quietly to the flag-ship. It is not alleged that any disorder or disturbance occurred, or any offence was committed, or that there was menace otherwise than what was constituted by the fact of the landing of these naval marines on the

shore without permission previously given by the national or state authorities at Panama.

Upon this state of facts the President of the State of Panama, one of the constituent States of the republic of Colombia, on the 6th of September, addressed a note to Rear Admiral Pearson. In that note the President of Panama stated, that on the day of the funeral, he (the President), with the other public superior functionaries, national and state, residing in the city of Panama, were prepared to attend the funeral obsequies of the late consul, whose death was justly deplored, when the President perceived that a party of armed people, belonging to the United States marine, had disembarked, together with a band of music, to do honor to the civil and military rank of Mr. McKee. This discovery the President said placed him under the painful necessity of declining and causing the other authorities to decline attending the obsequies, because no permission for such disembarkation had been asked for of him, he being the first authority in the State of Panama. The President in his note alleged that it would have been very natural for him to have granted such permission, especially in consideration of the fact that neither the national nor state authorities in Panama had there any band of martial music, nor any body of troops to contribute in giving new gravity to the ceremony.

The President then argued that the disembarkation of the marines with a musical band without permission being first solicited might be understood unfavorably if it should pass unnoticed ; that his silence on the occasion might be taken as an argument thereafter for neglecting the correct usages of the law of nations.

Having made these explanations, the President closed with saying that he expected, therefore, that in case it should be necessary to disembark armed naval forces in future, that it would not be done without the consent of the authority at Panama, which represents the sovereignty and independence of the nation.

Rear-Admiral Pearson replied to the President on the 8th of September, to the effect following, viz. : After reciting the facts in the case the rear-admiral said, that he regretted that the President had not attended the funeral services of a consul so much beloved ; that he could do no less than to express also the impressions which had been made upon his mind by the President's statement of his objections to the presence of the marine guard and the marine band at the funeral ceremony.

The admiral having averted to the facts that the marine guard

were furnished with cartridges, only without balls, that the band of music was unarmed ; that their only object was to honor the remains of the consul, then took notice of the complaint of the President that the disembarcation was contrary to the rights of nations.

The admiral said he knew perfectly well that armed troops should never put foot on the territory of a friendly government without special permission from its chief, but in the present case he added ;

“ All the city was mourning the loss of a friend ; and it never occurred to me that anything I might do in honor of his memory would be taken in any other sense than joining in the general grief of all, including the President and the other employés of the government.” “ Besides,” continued the admiral, “ at that time the city was overhung with a cloud of sadness, which prevented lending attention to little forms, no one thinking of anything but in contributing to the deceased, the much loved Colonel McKee, the melancholy homage, whose remains were to be immediately buried.”

Passing from that point, as it would seem to the conclusion of the President's letter, the admiral said, “ I will here take the liberty to assure your excellency that, in conformity with my orders to the squadron of my command, armed troops will land immediately whenever it is necessary to fulfil the stipulations of the treaty between the United States of Colombia and the United States of America, and especially when the railroad and its passengers are in danger.

“ You inform me,” the admiral continues, “ that, for the future, you hope when it may be necessary to land armed troops it will not be done without the consent of your excellency. There is not the least objection to asking this permission ; but I believe it to be my duty to give you notice, that in case of alarm the required force of the squadron for an immediate service would probably be detained from arriving in Panama at least two hours, waiting to communicate with the city and receive permission from your excellency. In consideration of the conditions of the treaty, it is believed that armed troops may be landed at any moment ; and our late consul and others anxiously desiring it, I have ordered the marine troops to land when there was any danger, to protect the consulate and the naval depot, without permission from the authorities, and I am disposed to do the same again ; convinced that such conduct will not only be agreeable to the consul and naval storekeeper, but also to

the President of the State, since it will contribute to the preservation of good order."

The admiral concludes with saying to the President :

"Do not think for a moment, however, that I dispute your legitimate right to wish that permission be asked by means of an officer to disembark armed troops in time of necessity, or to do the customary funeral honors at the death of an employé of the United States, or to land a band of unarmed musicians. All this, besides being your lawful duty, would give me pleasure to carry it out by means of an order to the commanders. I shall also remit to the government (of the United States) a copy of your communication and a copy of my answer, to the end that if at any time the force under my command shall be delayed in case of any emergency in consequence of my awaiting your consent to the disembarkation, it may not be attributable to me."

Having now set forth the material parts of the correspondence which took place in September last between the President of Panama and the acting rear admiral of the United States concerning the occurrence referred to, I proceeded in the next place to bring into the record the representation which that correspondence has elicited from his excellency Mr. Santiago Perez, secretary of the interior and of foreign relations of the republic of Colombia.

On the 16th of October last, that secretary addressed a note to the minister resident of the United States at Bogota, based upon the aforementioned correspondence. The secretary wrote in effect these words : "The neutrality of the isthmus, or of the sovereignty of New Granada (now the United States of Colombia) over it, guaranteed by the United States of North America, in the thirty-fifth article of the treaty of 1846, are rights pertaining to Colombia, rights the effectiveness of which it belongs to her to demand at the time and the circumstances which may be convenient to her and equitable. But that guarantee of the neutrality of the isthmus and its sovereignty to Colombia does not oblige her to submit to the measures which the United States of North America or any agent of theirs may pretend to impose on her in derogation of the national dignity, and not only without the requirement of the local authorities, but in spite of them."

The secretary proceeded to write further, to the effect that "the local authorities of the State of Panama, or as agents of the national government respectively, in virtue of their powers and in the fulfill-

ment of their duties, have to maintain on the isthmus the public security, and the guarantees due its inhabitants and persons who may be trustworthy there. In the discharge of their duties, the authorities would employ the means at their command and require such assistance as they may find necessary, and to which they may be entitled, provided it can be so given, and as stipulated."

The secretary continued his argument in these words: "Otherwise assistance would not be real assistance, and the employment of a foreign force, although under alleged necessity or convenience, would be rather to have it imposed than asked; and an act inadmissible by the legitimate authorities of that territory, and unacceptable according to the most primitive notions of public law."

The secretary proceeded to write further, as follows: "Agreeably to the said thirty fifth article, said guarantee is expressly declared to be an especial compensation for favors acquired by the United States of North America in that State. The guarantee is, therefore, not a right pertaining to them, but an obligation, a service contracted by them; a service, it is true, which redounds to their interest, but which cannot take the character of a power or jurisdiction. But, by giving to said guarantee the interpretation implied in the pretensions of Rear-Admiral Pearson, it would be converted into an additional favor to the United States of North America, a favor which would require on the part of Colombia the abdication of her sovereignty. The propriety of opportunely appealing to the necessary measures to preserve in every case security on the isthmus, must be decided by the power intrusted with its preservation, a power which represents the national sovereignty, and at the order of which, within the respective limits, agents are to be maintained whose duty it is to lend effective assistance. Who has borne the responsibility arising from a want of order or security on the isthmus when disorders have occurred? The use, therefore, of the forces of the United States of North America for the preservation of order and the maintenance of the sovereignty of Colombia on the isthmus has to be determined by the Colombian authorities themselves, and not by the chiefs of those forces, whatever may be the apparent inconvenience in any case to the latter—inconveniences to be foreseen and removed by him who is responsible for the disturbances.

Such is the understanding and the grounds taken by the Colombian government with respect to the part in question of the treaty of the **United States of North America**. It is sure that such is the

understanding and views maintained by the minister resident, whom the undersigned has the honor to address and to request of him an express opinion on the point. The way of transit across the isthmus shall be opened to the citizens and government of the United States of North America, agreeable to said article thirty-five, but neither this nor any other article of the treaty implies the right to disembark the troops in that territory without previous notice, and then subject to the conditions of the treaty. Much less does it imply the right to disembark North American forces in order that they may go through exercises on Colombian territory or occupy it in organized bodies or regiments in any operation whatever. The right to disembark and of transit will always be subject to the compact between the two nations, and, in cases of resistance, to the judgment and demand of the local authorities, who in this particular act as the agents of the national government.

"In this sense instructions have been given to the government of the city of Panama; and it is hoped that the minister resident of North America finding all the foregoing in strict accordance with the existing treaty, and with the well-understood interest of both countries, he will be pleased to communicate his orders accordingly to the agents of his nation on the isthmus, that they may desist from and put an end to whatever they have manifested or that they may manifest to the contrary."

Having thus recited the various points in this extraordinary correspondence, I proceed to give you the opinion of this government concerning the same:

First, I am of opinion that the entire controversy is uncalled for by any proceedings which have been taken by Admiral Pearson, or by any exigency that has arisen in our relations with the government of Colombia, and therefore I am of opinion that the discussion is entirely unnecessary.

The United States of America are sincere friends of the United States of Colombia. We are not now under any necessity to confess the obligations or to claim the benefits which result from that most interesting relation.

When we consider the circumstances of the death of our late esteemed counsel at Panama, Mr. McKee, it seems to us that Admiral Pearson might reasonably have expected, in view of the relations which he sustained to both countries, that the national or state authorities at Panama would first communicate with the admiral in

regard to that lamented event. We do not, however, think it strange that, impressed by the general and overwhelming sense of the calamity which had befallen both countries, the authorities of Panama omitted to make such a communication. In the absence of such communication we admit that it was the duty of the admiral to address himself to the national and state authorities at Panama and express his desire to attend the funeral obsequies of the deceased, giving notice of the form of ceremonial which he had adopted.

We regret his failure to do so, though we think criticisms upon that omission by the federal and state authorities of Panama, under the peculiar circumstances of the case, are uncalled for and unkind. We think that when Admiral Pearson appeared on the wharf attended by a detachment of marines furnished only with cartridges, and with the ship's band of music, for the purpose of attending the funeral of Mr. McKee, it was the right of the President of Panama, or other representative of the national government of Colombia, to ask of the admiral an explanation of the character and object of his landing. It is now manifest that such an explanation as would have been entirely satisfactory could and would then have been given. We regret exceedingly that it was not asked. We do not, however, complain of the Colombian authorities for omitting to ask the explanation. On the other hand, we think that a review of the whole subject would satisfy the friendly government of Colombia that the President of Panama on that occasion took a jealous attitude, which would have better become an agent of a party holding relations different and more unfriendly than those which at present exist between the United States of Colombia and the United States of America. It would have been entirely proper for him to ask of the admiral, in a friendly manner, an explanation of his proceedings in landing with the marines and musicians on the occasion referred to, and to have limited his demand to that subject alone. Had the President of Panama thus addressed the admiral there can be no doubt that he would have given an unobjectionable and satisfactory reply.

We understand that the reason why this subject is brought by the secretary for foreign affairs of Colombia to the notice of this government is, that in this regard, the reply which was given by the admiral to the letter which was addressed to him by the President of Panama was unsatisfactory. With a view to remove this

impression it is now cheerfully admitted by this government that it was the duty of the admiral in the first instance, on that occasion, to ask leave for landing the marines and musicians, and having omitted to perform that duty, it was then incumbent upon him to tender a satisfactory explanation to the authority. The President of Panama, however, was not content to ask merely such explanations as I have supposed, but, on the contrary, he preferred to enter a protest before the admiral against his proceedings, as if, in the President's judgment, they admitted of no explanations.

The President followed up that protest with a notice to the admiral to the effect that he, the President, expected that, in case it shall be necessary to disembark armed naval forces in future, it will not be done without the consent of the authority in Panama, which represents the sovereign independence of the United States of Colombia. The reply of the admiral to this gratuitous announcement made by the President of Panama, was unsatisfactory, and seems to have been construed as disrespectful.

The secretary for foreign affairs of the United States of Colombia, presents this reply of Admiral Pearson, as a subject of complaint to this government. I have to observe, in regard to this part of the transaction, that in my judgment no occasion had arisen, and no proceeding had been taken by the admiral, which called for the notification thus given to him by the President of Panama. No necessity had arisen, or was pretended by the admiral to have arisen, or to be about to arise, for such a landing of armed naval forces as is contemplated by the treaty between the United States and Colombia.

The admiral was not the person to be addressed for the explanation of his purposes or of the purposes of this government in vague and unfounded anticipation of such a contingency. He was simply a subordinate to this government, which is directly amenable in law and courtesy to make such explanations to the government of the United States of Colombia as may become due to that government.

The President of Panama is a local magistrate at that place. He neither pretends to have had, nor could have had, any authority whatever from the United States of Colombia, to demand explanations from the government in such a hypothetical case as he conceived, much less to demand them from an unauthorized agent of the United States.

This government does not now think itself bound, on a review

of the whole correspondence, to give explanations to the government of the United States of Colombia in regard to the form of proceedings which it might suppose to be proper in case the necessity contemplated by the treaty for the landing of the land or naval forces of the United States should arise for guaranteeing the sovereignty of the United States of Colombia upon the route of the Panama Railroad. The treaty and the law of nations must regulate the action of both governments should such an emergency unhappily arise. We are not to treat of it in advance, because it is a mere vague possibility.

A government cannot justly be expected to give explanations and guarantees in regard to the course it will adopt in hypothetical cases, where it has neither itself done, nor suffered its agents to do, any act which implies a want of fidelity to its treaties and other international obligations.

For a government to give pledges voluntarily that it will not do what it is forbidden by those obligations to do, or will not do in an improper manner what it lawfully may do in a proper manner, would be to admit that it had given just grounds for jealousy or suspicion of its good faith. It is sincerely hoped that the prevalence of peace, law, order and loyalty upon the isthmus may be such as to render the stipulations of the treaty for the guarantee of its safety by this government to remain forever a dead letter. The United States desire nothing else, nothing better, and nothing more in regard to the States of Colombia than the enjoyment on their part of complete and absolute sovereignty and independence. If those great interests shall ever be assailed by any power at home or abroad, the United States will be ready, co-operating with the government and their ally, to maintain and defend them. Such co-operation will be in accordance not merely with the terms of the treaty, but also in accordance with the respect which is due to the sovereignty of that ally, and to the courtesies which friendship inspires, and which are invariably practiced between enlightened and friendly nations.

I am, sir, your obedient servant.

WILLIAM H. SEWARD.

ALLAN A. BURTON, Esq., &c., &c., &c.

Diplomatic Correspondence,
1866, Part III.
Pp. 532 and 533.

4th May, 1866.

(Mr. Burton to Mr. Seward.)

[No. 232.]

LEGATION OF THE UNITED STATES,
BOGOTA, May 4, 1866.

SIR:

In my No. 217 I expressed the opinion that the message of President Murillo to the present congress presented an illusory picture of the actual state of the country, especially of its financial condition. The correctness of that opinion is now verified by the startling message of acting President Rojas Garrido to congress, to be found in "Diario Oficial," No. 622, hereto annexed, announcing an existing deficit in the revenues of \$1,300,000, about one-half the amount of annual expenditures, which has to be met immediately, or the consequences will be most disastrous.

As I have heretofore stated, one-half the available national income is pledged to foreign creditors. A further increase of the tariff and the price of salt manufactured at the government works—the two principal and only considerable sources of revenue—is impracticable. The country has no credit in Europe. Its agent, who has been seeking a loan in London for the last year, backed by General Mosquera, the President elect, has entirely failed. The deficit is not, therefore, to be met by the loan. The only resort would seem to be, the sale of the emerald mines, the remainder in the Panama railroad, or the privilege of constructing a canal across the isthmus, or all together. A bill has passed the congress authorizing the President to sell the emerald mines, but as they are under a lease for a long term and their products after its expiration will be uncertain, they probably could not be sold for anything like their real value. The price for the canal privilege added to that of the mines would still be insufficient. The national interest in the railroad must be looked to, it would seem.

The contract celebrated with an English company for opening a canal across the isthmus of Darien will not be approved by the congress, and it has decided that its sanction is necessary. In addition to the deficit already mentioned may be named \$120,000 more received by the government from the canal company, and which will have to be refunded. Neither is it likely that a grant will be made just now to Mr. Teller. The President will probably

be authorized to treat on the subject with any person or company he may prefer.

Another present embarrassment to the government arises out of the purchase by General Mosquera of two steamers in England at the price of \$300,000. He did this without authority, but the vessels are on their way to, if not now in Colombian waters, must be paid for, and congress feels itself constrained to adopt the contract, although the nation has no use for them and is without the means to pay their purchase price. I happen to know that the Peruvian minister, lately received here as representative of the revolutionary dictatorship of General Prado, has offered to buy the vessels provided Colombia will, as the present administration is inclined, unite with the Pacific republics in their alliance against Spain. This offer will probably be accepted, although the fear entertained that this alliance might be looked on by the United States as releasing them from fulfilling their obligations contracted by the 35th article of the existing treaty, as against Spain in case she should invade the isthmus in a war thus officiously and quixotically assumed by Colombia, has caused the latter to hesitate.

Since writing the above, acting President Rojas Garrido has asked a distinguished personage here, who studies the affairs of our country with much interest and understanding, if, in his opinion, the United States were inclined to give notice for a termination of the treaty of 1846, and thus withdraw the guarantee over the isthmus. The President said he had fears of this: that a continuance of the guarantee was indispensable to the safety of Colombia. That the present is a grave crisis for Colombia, the war on the Pacific, the division among the Colombian people, and the desperate state of her finances, all considered. That he must have a million and a half of dollars very soon to enable the administration to move on; and that he saw no means of obtaining it except by an arrangement with the Panama Railroad Company. That such an arrangement would have a tendency to induce the United States to continue the guarantee. He requested this gentleman not to mention this conversation except under very special circumstances.

From this short review it will be seen that the situation and prospects of this country are by no means flattering. The consequences resulting from this unhappy state of affairs, which may more particularly concern the United States, will be a sale of the reserves in the railroad and of the privilege of constructing a canal. I believe it pretty certain that both transactions will be consum-

mated within the next two years, and that our citizens will be preferred as the purchasers, and by judicious action may secure both.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE IN NO. 232.]

(Message of the President of the Union.)

[*Translation.*]

CITIZEN REPRESENTATIVES:

Placed at the head of the executive government of the Union, I esteem it my duty to explain to you the present condition of the finances and treasury, calling your attention to the same and appealing to the patriotism of the representatives of the Colombian people for means with which to meet the pressing expenses of the public administration and the sacred obligations of the nation. Upon the latter subject, I had the honor to direct you a special message on the 13th instant, which I doubt not you will have received with the interest its importance demands.

As to the present fiscal situation, figures demonstrate the complete inequality of the estimated revenues and expenses.

The deficit of the national treasury for the economic year 1863-4,	
according to the report presented to Congress, is.....	\$35,921,043
The deficit of the appropriation for 1864-5, according to the	
liquidation of the executive power, is.....	488,906,950
That of the service for 1865-6, as liquidated by the executive	
power, will be.....	839,263,065
Total.....	\$1,364,091,058

This total deficit may be considered approximately correct, for while it may be true that in the year 1864-5 some revenues experienced a considerable increase, such as that of custom-houses, it is likewise true that this increase was counterbalanced by a diminution in others, such as those of the salt-works, mortmain property, mails, and income from property, and also by the increased expenses for salaries in the custom-houses, over the estimate.

It must also be taken in account that during the economic year in course, the product of the custom-houses will not equal that of the last, and that the difference in that of the salt-works will be still more remarkable in consequence of the reduced price of salt, a reduction which will not be compensated for a

long time by the supposed increase of consumption to arise from this reduction.

Appreciating in their true light these considerations, it is by no means exaggerating to suppose the actual deficit of the treasury to be \$1,300,000, a figure which will go on increasing if efficacious measures be not adopted, not only to meet this deficit, but also to equalize the national income with the expenses, without imposing an immoderate contribution on the people.

Consider, citizen representatives, the grave difficulties which will surround the administration if the means to meet the deficit in the treasury, which I have demonstrated to you exists, be not provided. It is not to be lost sight of that the government cannot be carried on without pecuniary resources and it is likewise to be borne in mind that a government must necessarily be bad which is conducted in the midst of penury and want, and by force of sacrifices yet more costly.

I firmly trust, by giving to these observations the importance they merit, the means will be procured for the executive power to make front to the fiscal situation set forth in the present message.

JOSE MARIA ROJAS GARRIDO.

EL SECRETARIO DE HACIENDA I FOMENTO,
Propero Pereiza Gamba.

BOGOTA, April 24, 1866.

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

2d June, 1866.

(Mr. Adams to Mr. Seward.)

[No. 1211.]

LEGATION OF THE UNITED STATES,
LONDON, June 2, 1866. (Recd. 13th June.)

SIR:

Towards the close of the conversation I had with Lord Clarendon on the 29th of last month, I seized an opening to say something on the subject to which you directed my attention in your dispatch No. 1745, of the 25th of April. I did so rather in a casual way, as if it were a matter which had been floating in your mind for some time back in consequence of the inconvenience to which our naval steamers had been put during the war for the want of stations at which to place depots of coal for their use. I alluded rather vaguely to the coast of Central America as among the places in which this want had been most felt, and to the possibility that the terms of the Clayton-Bulwer treaty might interpose difficulties in the way of securing the most convenient point that we might desire.

Whilst I did not feel myself altogether prepared to enter into specific questions just then, I desired to throw out the subject for his consideration as one to which I might perhaps presently be directed to return with more definite propositions.

His lordship replied by asking some questions as to the precise points contemplated, which I avoided answering on the ground, which is true, that I have not yet been able to refresh my recollection of the terms of the treaty, and by his remarking that the same thing was true as it respected himself.

He only retained a general impression of many conferences with one of my predecessors, Mr. Buchanan, on the subject and arguments presented by him, which he intimated were tedious enough, and not altogether calculated to forward a settlement; these had been terminated by an arrangement made at Washington.

He would look the whole thing over at the same time that I might be doing so, too, after which he should be in a condition to consider the subject more maturely.

I closed by observing that this was precisely the extent to which I had intended to go to-day. I did not understand that there was any necessity of hurry in the matter. I had referred to the topic as one which might call for his lordship's consideration at some future moment, and to that end I thought it would be expedient as a preliminary step to bring it to his attention now.

I have, &c.,

CHARLES FRANCIS ADAMS.

[*The above letter appears in Report of Secretary of State, in Special Message of President, 8th March, 1880, pp. 15-16.*]

Diplomatic Correspondence.
1886, Part III.
P. 537.

8th June, 1866.

(Mr. Burton to Mr. Seward.)

[No. 244.]

LEGATION OF THE UNITED STATES,
BOGOTA, June 8, 1866.

SIR :

Since his return from Europe, President Mosquera has spoken much of his admiration for and attachment to the British nation. He has on numerous occasions, as I am reliably informed, expressed his preference for that people over all others. This expression has

[illegible]

However, only in the President's House is this all-glass front. In all the other houses, the front facade is about 20 percent glass and 80 percent solid wall.

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ALLAN A. BURTON.

[illegible]

September 1, 1944 Washington, D. C.

Diplomatic Correspondence

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Mr. BURTON to Mr. WARD

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The Congress did not approve the grants made by ex-President Martin during his administration, and that contracted by General Livingston as Charge d'affaires in Great Britain, treated of in numbers above referred to, but enacted a law authorizing the President to grant a privilege for opening a canal to the best bidder.

after publication. The law is contained in Diario Oficial, No. 686, which, with a translation of the law, is hereto annexed.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[INCLOSURE IN NO. 252.]

A.

Law disapproving the contract celebrated by the executive power on the 25th of January last with the agent of Henry Duesbury, Esq., and defining a basis for the privilege of opening an interoceanic canal.

The congress of the United States of Colombia decrees :

ARTICLE 1. The contract celebrated by the executive power on the 25th of January last, with Senor Eustacio de la Torre Navaez, the agent of Henry Duesbury, Esq., for the opening of an interoceanic canal through Colombian territory, is hereby disapproved, *in toto*.

ART. 2. The executive power is hereby authorized to enter into a contract granting the exclusive privilege for opening an interoceanic canal through any part of the Colombian territory on the following bases:

1. The grant shall be for the term of ninety-nine years, to be computed from the day on which the canal shall be opened to the public, and on which the grantee or his representative shall commence collecting tolls for the transit or navigation of the canal.

2. During the existence of the grant, the government shall not make or authorize any other company or individual to make a canal, putting the two oceans in communication through the territory of Colombia. If the grantee of the privilege shall construct a railroad as auxiliary to the canal, across said territory, the government shall not make or authorize any company or individual to make another interoceanic railroad over said territory during the existence of the privilege granted for the canal.

3. The canal shall be completed and opened to the use of the public within ten years from the date of this grant; but if from fortuitous circumstances independent of the will of the grantee, after the construction of a third part of the canal, it shall appear that it cannot be completed within the ten years, the executive power is empowered to extend the time for four years more.

4. The canal shall be so constructed as to be navigable by the largest vessels now in use, the Great Eastern excepted.

5. The grantee is hereby granted the unappropriated lands necessary for the excavation of the canal, the establishment of marine ports, landings, places

of embarkation, moorings, warehouses, and in general for everything necessary for the construction and service of the canal, likewise the land which may be necessary for the line of the railroad, if it shall be made. These lands shall revert to the republic with the canal and railroad, at the expiration of the grant.

6. A belt of land on each side of the canal not exceeding 30 metres wide is also granted to the grantee, but along the whole line the neighboring proprietors shall have a perfect right to easy access to the canal and its ports, as well as to the road which may be constructed, without charge by the company.

7. If the territory on which the canal is to be excavated or over which the railroad is to be constructed shall in whole or in part be private property, the grantee shall have the right to appropriate it to his use according to law, and indemnity being made to him.

8. During the time the grantee shall hold the canal, he shall have the right to use the ports at the end of the canal for the anchorage of its boats, for the embarkation of goods to be left in said ports or transferred to other boats, in order to be sent on their way over the canal, in case they shall not have been destined to be sent over it by the boat bringing them; to use the intermediate ports necessarily and especially destined for storage and deposit free from all objects and merchandise which may be destined for transit, or to be disembarked at the intermediate ports, in which the republic shall have the right to place such agents as it may think necessary to prevent contraband traffic. The edifices which may be constructed by the grantee for deposits at the ports and landings shall be so arranged that a single person will be sufficient to guard against contraband.

9. The ports at either end of the canal shall be free and open for the commerce of all nations, and there shall be no import duties collected in them, except on articles intended for consumption in the republic. Said ports shall, therefore, be open to importation from the opening of the canal, and custom-houses and revenue guards will be established in them as the government may judge convenient, for the collection of the import duties on effects destined for other points in the Union and to guard against contraband. The employees which the government may esteem necessary to perform this service shall be paid entirely by the company, and their salaries fixed by the government.

10. The government of the republic declares forever neutral the ports at each end of the canal and its waters from one sea to the other; and consequently in case of war between other nations, or between another nation and Colombia, the transit by the canal shall not be interrupted thereby; and the merchant vessels and persons of all nations of the world shall be privileged to enter said ports, and to pass through the canal, without molestation or delay, foreign troops excepted, which shall not be allowed to pass without the permission of congress.

11. War vessels of belligerents, whose manifest destination is to take part in hostilities, shall be prohibited from entering the canal.

12. The grantee shall have the right to introduce free of duty of any kind all the instruments, machinery, tools, materials for houses, provisions and clothing for the laborers, which may be necessary while constructing the canal.

13. No contributions, national, municipal or of any other kind, shall be imposed on the canal, the boats which may pass through its tow-boats, warehouses, wharves, machinery and other works and effects of the grantee, and which in the opinion of the executive power may be needed for the use of the canal or its dependencies, during the existence of the grant.

14. The passengers, money, merchandise, objects and effects of every kind which may be transported on the canal, shall be exempt from every duty, national, municipal, or other character, whatever. This exemption shall extend to all the effects or merchandise which may remain on deposit in the ports, warehouses or landings of the grantee destined for the interior of the republic, or for a foreign country ; but effects destined for interior consumption shall pay the national duties or imposts existing at the time when they shall be removed from the warehouses of the grantee ; to which end he shall act with the knowledge of the agents of the republic and in conformity to the laws and the regulations which may be dictated by the executive power.

15. Travellers passing over the canal shall not need passports, except in case of foreign war or internal commotion, if the executive power shall deem it proper to require them ; but the vessels passing the canal shall be obliged to present in the port at the end of the same, on their arrival, their registers and other sea papers, which may be necessary according to the laws and public treaties, to entitle a vessel to its free navigation. Vessels which may not have such papers, or that may refuse to present them, will be detained and proceeded against according to law.

16. When duties or imposts are payable on effects introduced into the territory adjacent to the canal, the vessels will pass through it with their hatchways closed and sealed by the custom-house at the end of the canal at which such vessels may arrive, and will receive on board one or more government employés, to see that nothing carried by said vessels shall be landed during the transit. If, after passing through the canal, the owner of a vessel shall desire to disembark or sell the cargo at the port at the end thereof, he shall be allowed to discharge the cargo, the forms of law being duly observed.

17. Boats carrying effects for the use of the canal, agreeably to section 12, may enter freely any point of the territory designated in the first part of this article when the same shall be necessary for the work on the canal or its commencement, although there may be no custom-house at such point. And to prevent fraud, previous notice shall be given to the proper custom-house of the port to which such vessels are bound.

18. During the existence of the grant, the grantee shall have the exclusive right to establish the tariff of prices for passing the canal, the use of the landings, warehouses, and wharves, provided they do not exceed the following rates :

75 cents per ton for vessels in ballast, \$2 per ton for vessels laden \$10 for each person, and one-half of one per cent. on gold, silver, and platina, coined or in bars, and upon precious stones. These prices shall always be the same for the individuals, vessels, merchandise, and property of all nations, and no vessel shall pass the canal without having paid said prices. Nevertheless, all craft belonging to the government of the United States of Colombia, or that may be in its service exclusively, shall pass through the canal and enter its ports free of any charge by the company.

19. The enterprise of the canal is considered of public utility.

20. The Colombian government will dictate the appropriate regulations to prevent contraband trade which the grant of this privilege shall render necessary.

21. The grantee is authorized to propose to the executive power the regulations which he may believe fit for the police, use and security of the canal, ports, works and establishments of every kind, but such regulations shall not be carried into effect without the express approvement of the national government, which, after approving, may reform or repeal them, as it may think proper, proceeding in all such cases in accordance with the laws of the republic.

22. In consideration of the right to collect toll, the grantee shall be bound to transport with care, punctuality, and without regard to nationality, the passengers, animals, merchandise, goods and materials of every kind that may be intrusted to him. The transportation shall be made without any special abatement of the tariff of prices other than that which may accrue to nations that have bound themselves by public treaties with the United States of Colombia, to guarantee positively and effectively to this republic the rights of sovereignty and property on the isthmuses of Darien and Panama, and the adjacent coasts, and the perfect neutrality of said isthmuses and their ports, to the end that the transit of these isthmuses and the canal shall never be interrupted, but it is expressly understood that the United States of Colombia, Colombians and their property shall enjoy all the benefits and advantages that any other nation may obtain in virtue of the provisions of this article.

23. The grantee shall transport gratuitously in their vessels the men in the service of the Union whom it shall be necessary to transport by the canal, or by the railroad auxiliary thereto, for the purpose of preserving public order, or for foreign security, and if the company shall not have vessels, those which shall be used for this purpose shall be exempt from the payment of tolls or taxes of any kind whatever.

24. The grantee shall be bound to transport from one end to the other of the canal or railroad all the mail matter of the republic or that may come from foreign countries, receiving for this service one-third of the sums which may be collected for receiving, carrying, and delivering said mail matter, agreeably to the contracts which the company may make for the purpose, with the approbation of the government. The other two-thirds shall belong to the United States of Colombia.

25. The grantee shall be obliged to execute at his own expense, risk, and danger, all the works necessary for the establishment and construction of the canal between the two oceans by the route which he may select in any part of the Colombian territory.

26. The grantee shall pay to the government of Colombia, for the first twenty-five years, eight per cent. of the net profits of the enterprise, without making any deduction from the earnings for the interest on the capital invested in the work, nor of any sum which may be destined as a sinking or reserve fund. And for the adjustment of said per cent. the government will see, in the same manner as the shareholders in the enterprise, to the liquidation of its accounts according to the by-laws of the company, and of which accounts, the cost of the undertaking, its books and papers, such agents as the government may name shall have power to take possession, and to make such observations and demands as may be just, like any other shareholder, but he shall not have the right to intervene in the management of the affairs of the enterprise. The payment of this percentage shall be made annually where the executive power may designate. The grantee shall guarantee this percentage shall not be less than \$600,000 annually, so that \$600,000 shall be the minimum which the government will receive in any event.

27. At the expiration of the grant, the canal wharves, warehouses of deposit, edifices, and works of the enterprise at the end and along the route of the canal or in anywise connected with the canal or its management shall become the property of and be delivered to the republic with the railroad that may be constructed in aid thereof, and its appurtenances. In this purpose, after the completion of the work, the grantee shall make at his own expense, in conjunction with the agents of the government, a descriptive inventory of the canal edifices and works connected with it, and of everything of value to be delivered to the republic. The grantee shall also make a like statement of all the works of a like nature which he shall make during the existence of the grant.

28. An exact duplicate, duly authenticated, of the documents mentioned in the foregoing article, shall be delivered by the grantee in the department of the government to which the branch of public works may belong, that it may be deposited in the national archives for whatever use may be necessary during the existence of the grant or after its expiration.

29. The grantee shall be obliged to make, one year before the expiration of the privilege, notice being given to the agents of the government to be named for the purpose, an appraisal and description of the works which are to be delivered to the republic, and deposit the same in such office as the executive power may designate for use at the delivery of the canal and appurtenances to the government.

30. The grantee shall give security for the performance of the obligations in which he may bind himself, by depositing \$150,000 in American dollars in Bogota, London or New York, as the executive power of the republic may direct

[illegible]

It is the policy of the Government to encourage the development of the private sector and to ensure that the private sector is able to contribute to the growth of the economy. The Government will continue to support the private sector and to ensure that the private sector is able to contribute to the growth of the economy.

12. In a letter dated 1901, the less thorough and territory embraced by the present grant to the Panama Railroad Company by the contract of April 15, 1881, the grant was made at the expense of obtaining the assent of said companies to the extension of the road.

34. The partners shall bind themselves to organize a company for the execution of the said undertaking, and to reserve a portion of the share stock for capitalists who may wish to take part in the enterprise by not disposing of them until the end of six months after the organization of the company. Everything stipulated in this contract is to be understood as accepted by the company.

34. This grant shall be forfeited in the following cases:

1. If the grantee shall fail to make the deposit named in section 3, to the satisfaction of the executive power of the republic; 2. If the route of the canal be not explored and fixed within eighteen months; 3. If the work shall not be commenced in due form within the two first years of the ten given for the construction of the canal; 4. If the canal be not completed at the expiration of the time fixed in section 3 for its construction; 5. If the company shall attempt to sell the grant to a foreign nation; 6. If the company shall co-operate in any rebellion against the government of the republic, intended to overthrow its dominion over the territory through which the canal may pass; and 7. When the transit of the canal shall be suspended for more than six months, save in cases of inevitable accidents as defined by the ordinary laws.

(This expression, "leges hominum" in the original, shows that the bill was drawn by an English lawyer. It would no doubt be translated "according to the common law." It is not an expression in the legal parlance of this country, or any other, in which the Roman civil law is the basis of its jurisprudence or of its legal literature. (Translator.)

35. In the forfeiture mentioned in section 34, the forfeiture shall be deemed to have taken place immediately on the expiration of the time for the payment of the sums. In cases 2 and 3 the Executive Government may also declare the forfeiture if it is not paid, or if it shall appear by

credible documentary evidence that no labor has been begun on the canal within the period fixed by said section ; but if any labor shall have been performed, so that there is cause to doubt whether the company may have incurred or not the forfeiture named in the 3d case provided for, the judiciary shall determine the matter.

36. In cases 4, 5, 6, and 7, of section 34, the judiciary of the Colombian Union shall decide the question of forfeiture.

37. In case of a declaration of the forfeiture of the grant or privilege, for any case the loss to the company shall accrue in favor of the republic ; first, the sums pledged as security according to the requirements of section 30 ; second, all the unappropriated lands granted to the company by sections 5 and 6, which lands in the condition in which they may be at the time, shall revert to the republic ; third, all the works, edifices, and improvements which shall have been made by the company in their then state, and the materials which shall have been prepared for any of the works on the canal or its appurtenances. The republic will make no indemnity for the edifices, works, improvements and materials which may pass from the company to the government according to the provisions of this section.

38. The government of the United States of Colombia and the company that may secure the privilege shall be mutually bound to take the necessary steps with the governments of England, Prussia, Holland, France and the United States of America, to induce them to guarantee positively the neutrality of the canal and sovereignty of the republic over the territory through which the canal may be constructed, the isthmuses of Panama and Darien and the adjacent coasts.

39. The diplomatic or consular agent of the republic resident in the domicile of the company shall be a member *ex officio* of the directive council thereof, with all the prerogatives which the other members may enjoy by the by-laws of the company.

40. The company shall bear, as general expenses of the enterprise, those which may be necessary to maintain the public force which may be judged necessary to preserve security to the interoceanic transit.

ART. 3. The executive power is authorized to demand as a condition of granting said privilege, that the grantees oblige themselves to enter into contract with the founders and partner and inspector general of the Buenaventura wheel-road, now in process of construction, to convert it into a railroad from the port of Buenaventura to the point on the river Cauca near Cali, by receiving the work now being executed and the available funds. The company shall grant to the national government, to that of the State of Cauca, and to the individual shareholders, shares in the new enterprise equal in amount to the sums paid by them respectively to the said Buenaventura Road Company.

ART. 4. The contract alluded to in the foregoing article shall be a simple

transfer of the Buenaventura road privilege without imposing any burden on the national treasury.

ART. 5. If the privilege shall not be adjudged to Mr. Henry Duesbury, or to the company of which he is or may become a member, the executive power shall immediately order the return of the \$120,000 received by the government of the republic in consequence of the agreement for the excavation of a canal celebrated on the 25th of January last between the agent of said Duesbury and the President of the United States of Colombia.

ART. 6. The executive power will cause this law and a project of a contract to be published in the most notable periodicals of Europe and North America, and will fix a prudent time for receiving proposals by a commissioner to be named in London, or other place which he may deem most appropriate, and accept the most advantageous offer, which the executive power of itself will approve finally; provided always, that the stipulations of the contract be in accordance with this law; and if they be not, the approval of the congress shall be necessary to the validity of such contract.

Done in Bogota, June 27, 1866.

SANTOS ACOSTA,
President of the Senate of Plenipotentiaries.

ANIBAL GALINDO,
President of the House of Representatives.

AURELIANO GONZALES,
Secretary of the Senate of Plenipotentiaries.

FRANCISCO V. DE LA ESPRIELLA,
Secretary of the House of Representatives.

Bogota, June 27, 1866.

Let this be published and executed.

T. C. DE MOSQUERA.

FRANCISCO AGUDELO,
Secretary of Finance and Public Works.

39th Congress, 1st Session.
Senate Ex. Doc. No. 62.
In Vol. 2.

12th July, 1866.

[REPORT TO SENATE.]

(Report of Charles H. Davis on various proposed lines for interoceanic canals between Atlantic and Pacific Oceans, July 12, 1866.)

[Omitted.]

Diplomatic Correspondence,
1866, Part III,
P. 574 and 575.

3d October, 1866.

(Mr. Burton to Mr. Seward.)

[No. 277.]

LEGATION OF THE UNITED STATES,
BOGOTA, October 3, 1866.

SIR :

Referring to my No. 275, I now have the honor to enclose the annexed papers relating to the supposed preparations on the isthmus for a revolt against the national authority, to which I then briefly alluded.

Independence has long been contemplated and favored by a considerable part of the isthmian people, and there was no greater reason for the late alarm in the national government than has existed at any time for several years past. It is almost certain that the cry was raised a month ago by certain ex-officials here from Panama, who have been driven from that State for their crimes, and who owe their lives to the asylum heretofore given them against the justly enraged populace by our consuls and naval officers, to deceive President Mosquera into sending troops to the isthmus under the direction of the instigators of the rumor, who would not be slow in finding a pretext to make war on the Present State government, the only one fit to be called a government which the State has had for years. I am much disposed to believe that the correspondence was begun with me without the knowledge of the President, in order that these exiles, the under-secretary for foreign affairs being one, might ascertain in advance what position the United States officers at the isthmus would assume in case a body of adventurers collected on the Pacific coast in the State of Cauca should invade Panama in aid of the movement to overthrow its government. The case treated of in my Nos. 190 and 197 had presented itself again. In my No. 199 it will be seen that I had the misfortune to fall into a mistake, according to the opinion of his honor the Attorney-General, as given me in dispatch from the department No. 134, as to the obligations of the United States under the 35th article of the treaty of 1846. The view I then took, and which has since been in effect sustained by the department in the concluding paragraph of despatch to me, No. 139, dated April 30, 1866 (I have another of this number, dated August 5, 1866), is the one always entertained by this government, including President Mosquera, the real

negotiator of the treaty on the part of this country, until 1862, when, as dictator, he adopted an interpretation better suited to the circumstances then surrounding him. The interpretation which had up to that time prevailed here imposed grave duties on us, and since being notified of the opinion of the Attorney-General, I have conceived it to be my duty, should a fit opportunity present itself, to seek a declaration from President Mosquera's administration in accordance with the grounds taken by him in 1862 and the views of the Attorney-General, above referred to, which, if successful, would avoid any doubt that might arise in future as to the duties intended to be imposed by the treaty. I consider the note initiating this correspondence concerning the alleged danger of an uprising on the isthmus an opportune occasion for the purpose, and ventured to call for the interpretation of the treaty in this respect by the present administration. The result has been that the Colombian government declares that it does not feel itself authorized by the treaty to require the aid of the United States for the suppression of an insurrection, rebellion, or other disturbance on the isthmus on the part of Colombian citizens, not even an invasion by another Colombian State, unless such movement be intended to detach the State of Panama from the Colombian Union and to annex it to a foreign power. This would seem to leave the isthmus free to declare itself independent of the United States of Colombia, without the fear of the forced intervention of the United States of America, provided such declaration be not accompanied by the end of annexation to a foreign power. If such purpose be not declared at the time and the isthmus should secure its independence, which is admissible under the construction just adopted by this government, it would appear too late to then invoke the help of the United States to subjugate it again to Colombian rule in case it should afterwards attempt to unite itself to another nation. Should this view of the Colombian government become known to the people of Panama, it is entirely safe to predict a revolutionary movement for independence at no very distant day, which, unless it shall be so indiscreetly conducted as to call for the interference of the United States, will very likely be made good.

I have the honor to be, sir, your obedient servant,

ALLAN A. BURTON.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[INCLOSURE 1 IN NO. 277.]

D.

(Mr. Burton to Senor Garrido.)

LEGATION OF THE UNITED STATES OF AMERICA,

BOGOTA, September 12, 1866.

The undersigned, minister resident of the United States of America, has the honor to acknowledge the receipt of the communication which his excellency Senor José M. Rojas Garrido, secretary of the interior and foreign relations of the United States of Colombia, was pleased to address him on the 3d instant, announcing that the Colombian government had then just received private but trustworthy information to the effect that an insurrectionary movement against the national authority, instigated by the agents of the Panama Railroad Company, was being prepared in Panama, with the end of wresting that State from its allegiance to the federal government, notwithstanding, as is stated, the well known loyalty of its inhabitants. The fear is expressed that in such event the insurgents might come in conflict with American citizens and interests, and that to guard against any occurrence of the kind the grand general President had ordered his excellency to request the undersigned to advise his government of said apprehended insurrection, and also to direct the troops and citizens of the United States, as well as the agents of the Panama railroad, to carefully abstain from interference or participation in the same, for the reason, as his excellency is pleased to state, that the government of the undersigned is bound to guarantee positively and efficaciously the perfect neutrality of the isthmus, and consequently the rights of sovereignty and property which the United States of Colombia have and possess over that territory.

Upon the receipt of his excellency's communication, the undersigned did not delay to send the same to his government and to notify it to the agents of the United States at the isthmus, although the latter are under direct orders from Washington, which, independently of their own sense of duty and propriety, is a complete guarantee against the realization of the fears implied in the request that special direction should be given them to not take part in affairs with which they might have no concern.

With regard to the alleged complicity of the agents of the Panama Railroad Company in the supposed revolutionary enterprise the undersigned esteems it his duty, in justice to a respectable association of his fellow citizens, to affirm that, while he in no wise impugns the good faith of the informant of the Colombian government, he happens to have good reasons to know such indeed as to his mind exclude all reasonable doubt that, even if disloyal purposes towards the national government exist on the isthmus, as supposed, the charge against the agents of the Panama Railroad Company is without any real foundation whatever. And the imputation being of a character so grave, and which if suffered

to rest without further notice may prejudice alike in the eyes of the world, so much interested in the good management of that great highway of nations, both the railroad company and Colombia, its joint owners, it is hoped that the government of his excellency will esteem it just and convenient to cause strict inquiry to be made into the alleged facts, giving to the result the like publicity which has been given to the charge. And further, as the government of the undersigned is equally solicitous with Colombia that law, order, and loyalty shall prevail on the isthmus, he trusts that his excellency may also find it convenient to communicate to his legation the evidences of their probable interruption.

After carefully considering the contents of his excellency's communication, the undersigned has not been able to determine with entire satisfaction the precise idea intended to be conveyed with regard to the duties resting on the United States to guarantee to Colombia the neutrality, sovereignty and property of the isthmus, and he believes that on a review of the same his excellency will agree that the importance and delicacy of the duties therein alluded to, require that they should be fully and clearly defined, so far at least as they are connected with the circumstances which have given rise to this correspondence. To enable the United States to act understandingly and effectively in the premises, it is believed important that they should know whether Colombia holds it their duty under the existing treaty stipulations between the two countries, to aid, when called on by Colombia so to do, in suppressing such a movement as that contemplated in his excellency's note, or any other disturbance confined to Colombian citizens, or whether the treaty guarantee is understood as limited in its application to attempts against the neutrality, sovereignty and property of the isthmus by powers foreign to Colombia.

His excellency will not fail to appreciate at once the present necessity of the two governments being in accord as to the answers to be given to the preceding inquiry. This is especially important to the United States, because the preparations for meeting their duty must necessarily be influenced thereby.

The undersigned improves this opportunity to offer to his excellency the assurances of his highest consideration.

ALLAN A. BURTON.

His Excellency SENOR M. ROGAS GARRIDO,
Secretary of the Interior and Foreign Relations, &c., &c., &c.

Two hours after the delivery of the foregoing note I received the following : I had the conference. The secretary simply told me what his answer would be. I told him I had only come to thank him for granting the interview, as it was unnecessary to enter into a conference about the method, inasmuch as I had already sent my note ; that I wished to confer with him before writing. He told me that Mariano Arosemena, the father-in-law of the United States Consul Rice, and Juan Mendoza had written from the isthmus to the government here

the charges against the Panama railroad. I replied that the charges were utterly false, and so known to be by the writers of the letters. He said he could not give up their names except to me confidentially.

A. A. BURTON.

[INCLOSURE 2 IN NO. 277.]

F.

(Senor Garrido to Mr. Burton.)

[*Translation.*]

BOGOTÁ, September 14, 1866.

The undersigned, the secretary of the interior and foreign relations of the United States of Colombia, has the honor to acknowledge the receipt of the communication which the Hon. Allen A. Burton, minister resident of the United States of America, was pleased to address to this department under date of the 12th instant, in answer to one which he had received from the same relating to the part which the agents of the railroad company might take in a projected revolutionary movement with the object of segregating the sovereign State of Panama from the Colombian Union; and in obedience to the instructions which he has received from the President of the Union, the undersigned will proceed to answer the said communication of the 12th instant.

With respect to the alleged interference of the agents of the Panama Railroad Company in the revolution, which, according to the rumor, and even data which the government has, is being set on foot there for the purpose of severing the isthmus from the Union, the executive power, taking into consideration the respectability of that company and the prudence and circumspection which must be supposed to govern its members, receives with pleasure the explanation concerning it in the communication of the Hon. Mr. Burton.

As to the interposition due from the government of the United States by the treaty existing between the two nations in the event that an insurrection by armed force should take place on the isthmus for the purpose of segregating it from the Union, the government of Colombia understands that, if such a movement should be effected with the view of making that section of the republic independent and attaching it to any other foreign nation or power, that is to say, in order to transfer by any means whatever the sovereignty which Colombia justly possesses over that territory to any foreign nation or power whatever, the case will then have arisen when the United States of America, in fulfillment of their obligation contracted by the 35th article of the treaty existing between the two republics, should come to the assistance of Colombia to maintain its sovereignty over the isthmus; but not when the disturbances are confined to Colombian citizens.

In conclusion, it affords the undersigned pleasure to renew to the Hon. Mr. Burton the protests of the distinguished consideration and esteem with which he has the honor to subscribe himself, his very attentive, obsequious servant,

JOSÉ M. ROJAS GARRIDO.

Hon. ALLEN A. BURTON,
Minister Resident of the United States of America, &c., &c., &c.

[INCLOSURE 3 IN NO. 277.]

G.

[*Translation.*]

(Independence of the Isthmus.)

* * * * *

It was then believed that the property and sovereignty of the republic over that part of its territory was made secure by the commercial interests of the powerful nations; and that England, France, and the United States, having interests on the Atlantic and Pacific, needed the free communication by "that bridge between two seas," and in order to make effective the freedom and security of the transit, it was indispensable that the isthmus should be neutral and independent of these nations. In the treaty with the United States of North America that neutrality is guaranteed, and there is no reason to believe that that government, which on more than one occasion has shown us its cordial friendship and its desire for our prosperity, will interpose its decisive influence, as *El Tiempo* says, to secure to the railroad company its great gains, and to prevent the knell of time from sounding the last agonizing hour of the official clique which oppresses the people of Panama.

If the government of the United States should desire the independence and annexation of the isthmus, it could consummate the fact in spite of the wishes of the editor and of all who should attempt to prevent it. It would secure the territory, but our race would be absorbed. This would be the inevitable result.

But fortunately the government of the United States does not desire or need it. Neither does the Panama Railroad Company. The latter enjoys its privilege and desires nothing more. Nine years, and that privilege can be redeemed, and the company can then enter into competition as a bidder, if not with better right than others, certainly with greater advantages, and among them I think

will be found the sympathies due to its honorable conduct in our domestic dissensions.

* * * * *

JOSÉ ANTONIO CESPEDES.

BOGOTÁ, September 11, 1866.

Diplomatic Correspondence.
1866, Part III.
Pp. 581 and 582.

9th October, 1866.

(Mr. Seward to Mr. Burton.)

[No. 156.]

DEPARTMENT OF STATE,
WASHINGTON, October 9, 1866.

SIR:

I have received a communication from Mr. Little, consul at Panama, in which are contained the circular addressed by the Government of Colombia to the government of Panama and the reply of the same thereto. You have no doubt become ere this familiar with the contents of that correspondence. Mr. Little mentions the prevalence of a rumor that an effort is about to be made to secure the independence of the State of Panama. He also states that there is a strong feeling in favor of that measure among the people of Panama.

The department has received authentic information of a similar import from other sources, and I deem it proper to indicate to you your course in the event that the anticipated trouble should actually come to pass.

The United States have always abstained from any connection with questions of internal revolution in the State of Panama, or any other of the States of the United States of Colombia, and will continue to maintain a perfect neutrality in such domestic controversies. In the case, however, that the transit trade across the isthmus should suffer from an invasion from either domestic or foreign disturbances of the peace in the State of Panama, the United States will hold themselves ready to protect the same.

I transmit to you for your better information, a copy of the communication of Mr. Little without enclosures.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

ALLAN A. BURTON, Esq., &c., &c., &c.

Diplomatic Correspondence.
1866, Part III.
P. 584.

13th November, 1866.

(Mr. Seward to Mr. Burton.)

[No. 164.]

DEPARTMENT OF STATE,
WASHINGTON, November 13, 1866.

SIR:

I have the honor to acknowledge the receipt of your despatch No. 277, of the 3d ultimo, informing the department of the inquiry you addressed to the government of Colombia as to its interpretation of the treaty concerning the isthmus in case of an insurrection in that locality, and of the reply you received thereto.

Your action is approved by the department, and I thank you for the assiduity and diligence with which you have gathered information that may ultimately be useful.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

ALLAN A. BURTON, Esq., &c., &c., &c.

Diplomatic Correspondence.
1866, Part III.
Pp. 597 and 598.

23d November, 1866.

(Mr. Seward to General Salgar.)

DEPARTMENT OF STATE,
WASHINGTON, November 23, 1866.

SIR:

On the 16th of March last you were pleased to address a memorandum containing certain propositions with regard to the survey of the isthmus of Panama, in which you stipulated, on the receipt of a reply to the memorandum from this government, to submit the same "promptly to your government, that confirmatory action may be taken thereon by the present Colombian congress, thus expediting the enterprise."

The department replied in a note of the 19th of March, consenting to the propositions contained in the memorandum, subject, of course, to the necessary constitutional approval. We have failed, however, to receive any information as to whether any or what action has been taken in the premises by the congress of Colombia,

and I address myself to you for the purpose of soliciting such information, if within your power.

I avail myself of this occasion, general, to offer to you a renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

Señor GENERAL EUSTORJIO SALGAR, &c., &c., &c.

Diplomatic Correspondence.
1866, Part III.
P. 598.

26th November, 1866.

(Mr. Salgar to Mr. Seward.)

[*Translation.*]

LEGATION OF THE UNITED STATES OF COLOMBIA,
NEW YORK, November 26, 1866.

SIR:

I have the honor to acknowledge the receipt of your note of the 23d instant, in which you are pleased to ask me for information about the resolution which the government of Colombia may have taken in respect of the memorandum which I presented to your excellency on the 16th of March last, containing certain propositions relative to a survey of the isthmus of Panama, which were accepted by your government, subject to ulterior constitutional approval, and I hasten to reply.

As I promised in the memorandum itself, it was sent to the government of Colombia by the packet next after the 19th March, at which date you were pleased to communicate to me your acceptance through a private channel. I have since learned that it reached Bogota when congress was still assembled, and that its receipt had contributed to prevent approval of a previous contract made by the President for the excavation of a canal across said isthmus; but an official reply, and, what is more, a report upon the final determination of my government, have not been given to me up to this time, or at least such has not reached the legation; such marked delay causing me as much surprise as you doubtless have felt, besides the sincere regret not to be able now even to satisfy completely your inquiry.

I can no otherwise explain this delay than by attributing it to some accident to the mail in transit, or that the change in the personality of the executive administration which took place in May

last may have produced some confusion, because it is one of the decided purposes of my government to attend with solicitous care to every business connected with that of the United States of America.

With the view of obtaining the reports above mentioned, I addressed the government, now about two months since, a note claiming from them and calling their attention to this lamentable delay; so that I hope with good ground to receive them by the steamer which ought to arrive from Aspinwall the 9th of the coming month, and if it should so happen will immediately transmit them to you.

I avail of this occasion to renew to your excellency the assurances of my most distinguished consideration.

EUSTORJIO SALGAR.

His Excellency WILLIAM H. SEWARD, &c, &c., &c.

53d Congress, 2d Session.
House Mis. Doc. Vol. 37.
Messages of Presidents.
In Vol. VI., p. 465.

4th February, 1867.

(Special Message of the President of the United States.)

WASHINGTON, February 4, 1867.

To the Senate of the United States :

In answer to the resolution of the Senate of the 2d instant, requesting the Secretary of State to report what steps have been taken by him to secure to the United States the right to make the necessary surveys for an interoceanic ship canal through the territory of Colombia, I transmit herewith the report of the Secretary of State.

ANDREW JOHNSON.

DEPARTMENT OF STATE,
WASHINGTON, February 4, 1867.

The Secretary of State, in answer to the resolution of the Senate of the 2d instant, requesting " him to report to the Senate what steps have been taken by him to obtain from the Republic of Colombia the right for the United States to make necessary sur-

veys for an interoceanic ship-canal through the territory of that republic," has the honor to submit the following statement :

On the 16th of March last the Minister of the United States of Colombia to this country submitted to the State Department a memorandum of the following purport :

The United States of Colombia offer to the United States the privilege to explore and survey any portion of the Isthmus of Darien for the purpose of ascertaining the most suitable location for an interoceanic ship-canal.

2. Columbia will zealously co-operate in the undertaking by granting all the necessary authorizations, aid and comfort within its power to facilitate the object.

3. In view of obstacles which might arise from the hostility of Indians, the United States may unite with the expedition a force sufficient for its protection, which shall enjoy the privileges usually conceded to an army passing, by permission, through a friendly State, with the addition of the right of self-defence; the said force not to exceed one hundred and fifty men, rank and file, unless actual forcible resistance by hostile Indians or others should render an increase necessary, in which case the additional force is not to exceed five hundred men. The whole force is not to remain in the country any longer than the said survey may make it necessary, nor be employed for any other object whatever.

4. The government of Colombia will supply the expedition with all the maps, charts, surveys, reports and plans or information in its possession which the engineers may deem calculated to facilitate their labors, unless it should be incompatible with its existing obligations.

5. The expenses of the exploration and survey, except as otherwise stipulated, are to be defrayed by the United States.

6. In consideration of the premises the United States of Colombia grant to any organized company of citizens of the United States or its agents or assigns, the right of priority or preference to construct and use an interoceanic ship-canal within and across the aforesaid territory, with all the necessary lands and collateral privileges to render the same effective that may be hereafter agreed upon as satisfactory to the United States of Colombia and the company aforesaid; so that if by virtue of said survey, said work is to be undertaken upon the same terms, any company as aforesaid shall have the preference over any other company whatsoever. But if, after the expiration of the three years assigned for the completion

of the survey in the next article, the said survey has not been made, or if it does not favor the undertaking, or if another survey be on such account deemed necessary and executed by direction of the Colombian government, then and in any one of such cases, this privilege of priority or preference in favor of citizens of the United States shall cease.

7. The exploration and survey is to be commenced within a year, and to be finished within three years, from the date of the acceptance of the proposition contained in the memorandum by the two governments.

8. The engineers in charge of the expedition shall make the same identical reports upon the progress and result of their labors to the government of Colombia as they shall make to the government of the United States, accompanying them with the same illustrations, maps, charts, drawings, &c.

9. The above propositions are made subject to the approval of the Congress of Colombia, and the minister of Colombia undertakes to transmit them at once for the action of that body, on the receipt of their conditional acceptance by the executive department of the United States.

On the 19th of March, 1866, the department addressed a note to the minister of Colombia, in reply to his memorandum, in words of the following effect : Having taken the President's view on your memorandum, the department begs to inform you that if the propositions, in the form in which you have presented them, shall be sanctioned by the government of Colombia, through the requisite treaty stipulations, the United States will accede to them, subject, however, to the ratification of the Senate.

No further information has been received from the government of Colombia on the matter, and on the 22d of last November the department again addressed the minister of Colombia, asking him what action, if any, had been taken in the premises by the Congress of Colombia. No reply has yet been received to that communication.

Respectfully submitted,

WILLIAM H. SEWARD.

THE PRESIDENT.

40th Congress, 1st Session.
House Mss. Doc. No. 24.
In Vol. 1.

19th March, 1867.

(Resolution of House of Representatives.)

Mr. Banks, submitted the following Resolution :

Resolved, That the Committee on Foreign Affairs be instructed to inquire and report what measures have been taken by foreign governments or capitalists to secure control in the interests of rival nations of any of the routes or franchises for the transits across the isthmus of Panama, of Nicaragua, of Honduras, or of Tehuantepec, and to report what action, if any, it may be advisable for the government of the United States to take to secure the interests of American commerce on such transit routes.

Resolved, That the committee be authorized and empowered to send for persons and papers, and to take such measures as they may judge expedient and necessary to collect and submit the facts for the information of the government and people of the United States.

Diplomatic Correspondence.
1867, Part 2.
Pp. 823-828.

27th April, 1867.

(General Salgar to Mr. Seward.)

[*Translation.*]

LEGATION OF THE UNITED STATES OF COLOMBIA,
WASHINGTON, April 27, 1867.

SIR :

The executive authority of Colombia took into consideration the project of a convention for the exploration of the isthmus of Darien, which I had the honor to propose to your excellency last year, but there having been proposed about that time various projects for the immediate excavation of the interoceanic canal, the Colombian congress, to which the affair was referred, judged it more convenient to issue the decree inserted in the *Diario Oficial*, which I send to you herewith, and which fixes the basis for the concession of a privilege for the opening of a canal.

Messrs. Thomas Page, Sir Henry Kepply, Robert Marshall, and E. B. Webb, of London, have addressed a petition accepting the concession of the privilege in the terms of the law, by my government, desiring that the American nation may be associated in that

undertaking, has charged me to make report thereof to your excellency, as I do in the law referred to, in order to see whether the government of the United States will make an offer similar or better for Colombian interests.

I have the honor to repeat to you, sir, the assurance of my most distinguished consideration and respect.

EUSTORJIO SALGAR.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

[INCLOSURE.]

[*Translation.*]

Law disapproving the contract made by executive authority on the 25th January last with the attorney duly empowered of Mr. Henry Duesbury, and giving bases for the concession of a privilege for opening an interoceanic canal.

For copy of above law see page 1199.

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

21st June, 1867.

(Articles 14, 15, 16, 17, 18 and 19 of the Treaty of June 21, 1867, between the United States and Nicaragua. Dickinson-Ayon.)

ARTICLE XIV.

The Republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans through the territory of that Republic, on any route of communication, natural or artificial, whether by land or by water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both Republics and their respective citizens, the Republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICLE XV.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality and innocent use of the same. They also agree to employ

their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish one free port at each extremity of one of the aforesaid routes of communication between the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended, *bona fide*, for transit across the said routes of communication, and not for consumption within the Republic of Nicaragua. The United States shall also be at liberty, on giving notice to the Government or authorities of Nicaragua, to carry troops and munitions of war in their own vessels, or otherwise, to either of said free ports, and shall be entitled to their conveyance between them without obstruction by said Government or authorities, and without any charges or tolls whatever for their transportation on either of said routes: *Provided*, said troops and munitions of war are not intended to be employed against Central American nations friendly to Nicaragua. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States, or of any other country, across the said routes of communication, than are or may be imposed on the persons and property of citizens of Nicaragua.

And the Republic of Nicaragua concedes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the Isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The Republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon ailure to do this from any cause whatever, the Government of the

United States may, with the consent or at the request of the Government of Nicaragua, or of the minister thereof at Washington, or of the competent legally appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the Government of Nicaragua, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or property of citizens of the United States, the forces of said republic are authorized to act for their protection without such consent having been previously obtained.

But no duty or power imposed upon or conceded to the United States by the provisions of this article shall be performed or exercised except by authority and in pursuance of laws of Congress hereafter enacted. It being understood that such laws shall not affect the protection and guarantee of the neutrality of the routes of transit, nor the obligation to withdraw the troops which may be disembarked in Nicaragua directly that, in the judgment of the Government of the republic, they should no longer be necessary, nor in any manner bring about new obligations on Nicaragua, nor alter her rights in virtue of the present treaty.

ARTICLE XVII.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any country or countries over the commerce of any other country or countries, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Nicaragua.

ARTICLE XVIII.

And it is further agreed and understood that in any grants or contracts which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes

above referred to, or either of them, the rights and privileges granted by this treaty to the Government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist, of a valid character, it is further understood that the guarantee and protection of the United States, stipulated in Article XV of this treaty, shall be held inoperative and void until the holders of such grants and contracts shall recognize the concessions made in this treaty to the Government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by these concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement said guarantee and protection shall be in full force; provided, that nothing herein contained shall be construed either to affirm or to deny the validity of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad, or any other route of communication through the territory of Nicaragua from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends or otherwise more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

[*The above Articles 14-19 appear as Document 10, in Special Message of President, 8th March, 1880, pp. 132-134.*]

46th Congress, 2d Session.
Senate Ex. Doc. No. 112.
In Vol. 4.

27th September, 1868.

(Mr. Seward to Mr. Sullivan.)

[No. 58.]

DEPARTMENT OF STATE,
WASHINGTON, September 27, 1868.

SIR:

Your dispatch, No. 82, of the 12th August last, on the subject of the proposed canal across the Isthmus of Darien, has been received and taken into mature consideration.

In reply, I am directed to make the following observations on the

articles of the convention submitted by both and in the amendments
submitted by the Government of the United States of Colombia:

ARTICLE I.

"The United States of Colombia agree and consent that the United States of America shall make and the United States of America agree to make the necessary survey for such ship canal, and to carry out the same to be finished, then to locate the same, together with all its necessary appendages and appurtenances of such canal, harbors, stations, supply-warehouses and sheds on land and sea upon the domain and within the jurisdiction of the United States of Colombia, and to adopt a plan of construction, and to make thorough and detailed estimates of the expense and cost of construction; and for that purpose the United States of America may employ proper civil and military superintendents, engineers, ~~surveyors~~ and other agents and laborers, ships of war and transports, the military force, however, not to exceed at any time five hundred rank and file, without express consent of the United States of Colombia first obtained, and all persons engaged in such service, whether civil, naval or military, shall, while so engaged, render lawful submission and obedience to the civil authorities of Colombia. When the survey and locations shall be complete the President of the United States shall certify the same, with the necessary maps and descriptions, to the President of the United States of Colombia, and the same surveys, locations and descriptions shall be filed in the archives of the two Governments. The route and plan thus fixed may afterwards be varied as occasion shall require under the authority of the United States of America, due notice being given of such modifications to the United States of Colombia.

"Said canal shall in no case be constructed on or across the route of the Panama Railroad, unless the company's consent has been first obtained."

EXPLANATION.

Article I is understood to be agreed upon by both parties.

"ARTICLE II.

"It is proposed in behalf of the United States to substitute in lieu of Article--- what follows:

"The United States of Colombia agree to concede, set apart, appropriate, and devote to the purpose of such ship-canal all the terri-

tory, including land, ocean, and tributary waters, which shall be designated for the purposes thereof in such plan, and which may be found necessary, including in any case ten miles of waste, unsettled, and unimproved lands on each side of the canal throughout its entire length ; and all the materials for such construction found within the territory so to be conceded.

“ Private owners of property being entitled to have a just indemnity, to effect which the Government of Colombia shall order expropriations to be made according to its laws ; but the valuation thereof in no case to be enhanced by reason of the proposed or actual construction of the canal.

“ At the expiration of this convention the United States shall give back to the Colombian Government all such lots or portions of the lands herein ceded on both sides of the canal as shall not have been appropriated or be necessary for the use or purpose of the said canal, and also all such lots or portions thereof as shall not have been alienated or disposed of by the United States of America.”

EXPLANATIONS.

1. The English word “ waste ” used in the Colombian amendment does not with sufficient accuracy describe unsettled or unimproved lands, but rather means lands which are worthless or incapable of improvement or use.

2. The amendment proposed by the Colombian ministers *seems* to concede a tract of land ten miles wide on each side of the canal for the purpose of that canal, while in point of fact it concedes only half that quantity of land. The United States are to build the canal and defray its cost. All the lands which shall be conceded to them are expected to be sold and *its* avails to be applied in reimbursing the cost of the construction. Colombia is to pay nothing ; and yet according to the amendment proposed by her ministers, Colombia is to receive the avails of the sale of one-half of the territory conceded.

The concession of the lands required by the United States would not be required at all if it were believed that the capitalists would be procured without that inducement. I cannot too earnestly express my conviction that the real hazard of the enterprise is not that Colombia shall concede more than is necessary to secure its success, but that all the inducements which can be offered by both Governments will be insufficient to invite the necessary capital.

3. It is supposed, indeed, that under the expropriation laws of Colombia, private property would be valued without enhancement by

the reason of the proposed or actual construction of the canal. There can be no harm, however, in establishing that principle indefinitely. The public patrons of the enterprise could afford to take no private property at all for the uses of the canal if they were to be charged in favor of individual citizens of Colombia with profits upon the outlay to be made by the patrons themselves.

4. The modification proposed by me in regard to the restoration of portions of domain at the expiration of the convention sufficiently explains itself.

“ARTICLE III.—(Newly proposed by this Government.)

“The United States of Colombia stipulate not to undertake or allow the opening of any other interoceanic canal, or of any new railway through their territory, from the Atlantic to the Pacific Ocean, without the consent of the United States.”

EXPLANATION.

1. The intelligent economists who have been consulted are of opinion that the article as originally proposed and as approved by the Colombian ministers, would be ineffectual as an inducement to capital without excluding any new interoceanic railway, as well as any other interoceanic canal.

“ARTICLE IV.

“The outlay, cost, and expense of the survey, location, construction, and equipment of the said canal and its ports, stations, depots, and harbors, including damages paid for private property, and the indemnity that may correspond to the Panama Railroad Company, should the case arrive, in accordance with the contract, celebrated by the Government of Colombia, and approved by Congress on the 15th of August, 1867, shall be for the account of the United States of America, but exclusively with reference to the purposes of this convention. The objects devoted in Article II by the United States of Colombia for the work of the canal shall be delivered to the United States of America, but exclusively for the purposes of this convention.”

EXPLANATION.

The Colombian minister's amendment seems to be reasonable and proper, and is accepted.

“ARTICLE V.—(New as now proposed by this Government.)

“The United States of America shall construct the said canal, with its appendages and appurtenances, and may employ the neces-

sary force of skill, art, and labor for that purpose, and may also maintain a necessary military and naval force. The civil employés engaged being subject to the laws and Government of the United States of Colombia ; and the United States engage that the military and naval employés so engaged shall always conform themselves to the laws and Government of the United States of Colombia. The naval and military forces shall, in no case, exceed one thousand, rank and file, of both armies, unless the express consent of the United States of Colombia shall have been first obtained."

EXPLANATION.

1. The original Article V, on revision, seems to require amendments so as to prevent possible differences between the two nations in regard to the employés.

Civil employés will be directly subject to the laws of the Colombian Government as administered by the authorities. The United States guarantee that the military and naval forces, while remaining under the command of their own officers, will respect and obey those laws.

2. Doubtless five hundred, rank and file, would be an adequate force to protect surveyors against hostile Indians or other disturbers of the peace ; but in prosecuting a work of so great magnitude as the proposed ship-canal, the number of workmen employed at times might well be expected to fully exceed the number of five hundred or one thousand.

The Secretary of War of the United States has been consulted, and he is of opinion that to secure the public peace and a continuance of work in the contingency of surprise, it would be well to stipulate for a force of one thousand.

There would be no reason in any case to apprehend that the United States would be disposed to employ a force unnecessarily large. Every consideration of convenience and economy will incline them to use the smallest number possible. The United States have never shown a disposition to maintain military forces for political purposes in foreign countries.

" ARTICLE VI.

" As fast as the canal and its appendages and appurtenances shall be constructed, the control, possession, direction, and government of the same shall belong to and be exercised by the United States of America, the Government of the United States of Colom-

bia at the same time being always at liberty after the exchange of this convention to maintain a permanent committee of agents, with a right to examine the accounts, inspect the operations concerned, measure the tonnage of vessels, and report thereupon to the Government of Colombia; but not to interfere with the survey, control, management, direction, and working of the canal."

EXPLANATION.

This Government acquiesces in the modifications proposed by the Colombian ministers.

"ARTICLE VII.

"The Government of the United States shall establish a tariff of tolls and freights for the said canal. Such tariff shall be upon a basis which shall not allow of more than an aggregate of twenty-five per cent. of net profits after first deducting the outlay upon the survey, location, construction, management, operation and control of the canal, including in the cost of construction the damages which shall necessarily be paid for private property and indemnities, if any shall be found necessary and proper, to the Panama Railroad Company. Further, such tariff shall be on a basis of perfect equality for the two nations, and for all other nations who shall be at peace with both the United States of America and the United States of Colombia. But nothing herein contained shall be construed to prevent the two Governments from agreeing upon such a modification of the tariff as will enable the United States of Colombia to receive a reasonable proportion of such net revenue as is before mentioned, or such modifications as may discriminate in favor of both nations, if any political necessity now unforeseen shall at any time require it."

EXPLANATION.

1. Due consideration has been bestowed upon the amendments to this article proposed by the Colombian ministers. The result is that the United States find themselves obliged to decline all of those proposed amendments.

The seventh article, as originally written, proposed that the tariff of tolls and freights shall be on a basis of perfect equality for both nations, and for all other nations who shall be at peace both with the United States of America and the United States of Colombia.

The Colombian ministers, on the contrary, propose that the tariff shall be on a basis of equality for all nations, whether at peace or

war. If, unhappily, Colombia shall at any time engage in war with a foreign nation, the United States of America do not suppose that the Colombian Government would expect to furnish unlimited transportation to its armed enemy. Nor could the United States of America consent to guarantee that Colombia would adhere to any possible stipulation for the practice of such magnanimity.

If, unhappily, the United States of America should be involved in war with a foreign nation, a contingency which is not expected to take place within the life of the proposed convention, no administration here could permit itself to allow the foreign enemy to use a work constructed by the United States, or their citizens, for the advantages of that enemy and to the prejudice of the United States of America.

With all due respect to the Colombian ministers, we think that the amendment proposed in this respect is impracticable and visionary.

2. The original Article VII. proposes that the tariff shall be upon a basis which shall not allow a profit of more than twenty-five per cent. upon the entire cost of the canal, with its indemnities, &c.

The Colombian ministers propose to strike out this limitation of the revenue profit of twenty five per cent. with a view, doubtless, that by allowing larger profits the two Governments may derive revenue from the canal.

The proposed ship-canal, like any other artificial channel of trade, will, all other things being equal, command business in proportion as its tariff of revenue is reduced. It is a thing hitherto unheard of that any such public work of internal improvement yields or can yield permanently a profit of more than twenty-five per cent. upon its cost.

It remains to be seen whether the Darien ship-canal will be more productive. It is certain, however, that every dollar of revenue that either the United States of America or the United States of Colombia can derive from the canal will be a tax, serving to abate its effectiveness for the purposes for which it is designed. If there are capitalists who would invest their money in constructing this canal with the purpose of affording direct revenue to either the United States of America or the United States of Colombia, it is believed this is the first instance where capitalists have ever shown so great devotion to any government. The principles of political economy which prevail in the United States of America forbid, and

will continue to forbid, this Government from ever taking even one dollar of net revenue from the construction of any channel of navigation or transport.

In opposition to such a policy the United States of America encourage capitalists by offering them adequate and liberal rewards, and by reducing profits encourage business upon artificial highways. Government revenues are only expected to be derived from the increase of values and production which result from the construction of such works.

The Government of Colombia is invited to consider whether it is not impracticable for it to construct works of improvement upon principles different from those which are here perhaps too sharply expressed.

If it shall turn out that we are mistaken in our present anticipation that the work shall prove sufficiently productive to yield revenue for the two Governments, Article VII., as originally prepared, reserves for consideration after that the development should be made the proceedings to be adopted for the division of those profits.

3. The commissioners propose (1) a stipulation that the annual expense of the undertaking shall in no case exceed thirty per cent. of the annual proceeds, without the consent of both contracting parties; (2) that the net proceeds of the undertaking corresponding to the United States of America shall be preferentially applied from the first year to the reimbursement of the capital invested; and (3) that to determine the net proceeds of the undertaking no deduction shall be made for interest on the capital invested in the work, nor for the amount destined as a reserve for the sinking fund.

Upon careful inquiry, I am satisfied that the restrictions thus proposed would defeat a subscription of the necessary capital for the construction of the work.

On the subject of this article generally, I may be excused for saying that the United States of America have been able to secure the undertaking of the Pacific Railway, now in such prosperous progress, through the territory of the United States, only by allowing to capitalists guarantees more liberal, and promises of reward more munificent, than those which are stipulated in this Article VII., as now invested upon, with a view to the construction of a ship-canal by capitalists of the United States in a foreign and distant country.

“ARTICLE VIII.

“The United States of Colombia shall retain their political sovereignty and jurisdiction over the canal and the territory pertaining thereto, but they shall not only allow, but guarantee, according to the constitution and laws of Colombia, the peaceable enjoyment, control, direction and management of the same, as before specified.”

EXPLANATIONS.

The amendments proposed by the Colombian ministers to Article VIII., seem reasonable, and are accepted.

“ARTICLE IX.

“The United States of America and the United States of Colombia shall have right to use the canal for the transportation of troops and munitions of war, but no other nation shall have such right without the consent of the two contracting parties, and in case of war in which neither the United States of America nor the United States of Colombia shall be parties, the canal shall be neutral to all other nations.”

EXPLANATIONS.

The projected treaty comes back with the words, “rejected by Colombia,” written opposite this Article IX. No explanation for the rejection has been communicated.

By expunging that article the treaty would leave the proposed ship canal to become a common military road for the transportation of armies, and of military and naval munitions by all belligerents of whatever nation they might be.

If it may be supposed, by way of illustration, that Great Britain and France are belligerents in the East, or that China in the East and Great Britain in the West, or that Austria and Prussia, or that Spain and the South American Republics, or that Russia and Japan, should become belligerents, and that there might not only be one war between some of those parties at one time, but half a dozen wars prosecuted among so many belligerents at the same time. In that case, according to the view of the Colombian convention, not only one of those belligerents but both the parties engaged in one actual war, and, indeed, all the parties engaged in *all* the conflicts concurring at the same time would have a right to use the Darien-ship-canal as a military road.

Is it to be supposed that those belligerents in the heat of conflict would conform themselves to the regulations which the United States

of America might establish for the use of the canal, or would submit themselves to the laws and police of the United States of Colombia in the use of it for such hostile and probably fatal purposes?

One of the two belligerents might think it would gain an advantage over its enemy by burning the ships that were carrying munitions and troops through the canal; another or a confederacy of others, might think it would be advantageous to their cause to destroy the canal itself. Is Colombia able and willing to guarantee to the United States of America the maintenance of the neutrality which she thus proposes to all belligerents?

What inducements does Colombia offer to the United States of America to give such guarantee on their part?

Even though one of the belligerents should be at war with Colombia itself, the Darien Ship-Canal must nevertheless be neutral.

The armed enemy of Colombia must be allowed to introduce his armies through the terminal ports and the canal to the very capital of Colombia, and to substitute itself in the place of Colombia as depositary of the key which unlocks the American continent to the ambition of foreign powers.

The United States of America have less reason perhaps than any other nation has now or ever has had to desire, fear, or expect to be engaged in war with any foreign State; but can the Republic of Colombia expect, in the event the European States should attempt singly or by confederacy to overthrow republican institutions and to restore by force imperial or despotic power in the American continent, that in such a case the United States of America would allow a public enemy of the American continent, the use and advantage of a work constructed by two American nations? Even if the two nations were to be so shortsighted as to leave such advantages open to an enemy of either or both nations, the capitalists of any country who should be invited to engage in constructing a canal would instinctively decline to grant the solicited investment. Article IX., as originally submitted, carefully consults the sovereignty, integrity, and safety of the United States of Colombia, while in case of war it saves all necessary advantages to both countries.

The Secretary sincerely hopes the Colombian ministers will reconsider their rejection and accept the article.

“ARTICLE X.

“Colombia shall impose no tolls or duties of any kind on vessels, passengers, money, merchandise, and other objects which may be

conveyed through the canal from one ocean to another, but such effects as may be destined for home consumption or trade in Colombia, shall be liable to such duties as are or may be established."

EXPLANATION.

The amendments proposed by the Colombian ministers are accepted.

"ARTICLE XI.

"Notwithstanding what is before said of guarantee, if a military or naval force shall be at any time found necessary to maintain the protection and service of the canal, it shall be maintained at the equal expense of the contracting parties.

"Either party failing to contribute its proportion of such force shall indemnify the other for excess of force and expenditure."

EXPLANATION.

The Colombian ministers have raised no objections to this article, and it stands as originally drawn.

"ARTICLE XII.

"The neutral rights and privileges hereinbefore specified shall continue for the period of one hundred years after the canal shall have been brought into operation, at the end of which time the canal and its appendages and appurtenances shall revert to the United States of Colombia, on their payment to the United States of America an amount equal to the original cost of the survey, location, and construction of the canal and expenditures for the same, deducting any net profits that shall have been received by the United States of America exceeding an interest of ten per cent."

EXPLANATION.

We have carefully considered the amendments proposed by the Colombian ministers and are of opinion that they could not prudently be accepted. The whole article is rather visionary than practical.

The reversion of the canal to the United States of Colombia is delayed an hundred years. No one now living can foresee the financial, political, and social conditions which will exist in the two countries at that distant period. Indeed it is very probable that such changes may occur in both countries that the parties will, by common consent, agree more than once to modify the agreements now made long before the period assigned.

It may be foreseen that such modifications will be desired by the Republic of Colombia if it shall go on increasing in resources, population, and strength, as it is to be hoped it may. The terms of revision mentioned in Article XII. were fixed in anticipation of some such early reconstruction of the agreements, rather than with a view of their being insisted on only at the end of one hundred years.

What seems conclusive upon the subject is that capitalists could not be expected to invest funds in such an enterprise with a condition of a future surrender of their property in the canal unless they had reason to expect that they should be allowed by the Government to realize ten per cent. upon their investments if they shall find it possible.

"ARTICLE XIII.

"The United States of America may by law devolve all its rights, franchises, and duties, property and obligations touching survey, construction, or preservation of the proposed canal herein contained upon any individual citizen or incorporated associations of citizens of the United States, and in that case such citizen or citizens shall enjoy all the rights of property and privileges, and be subject to all the obligations and engagements herein contained, and they shall always be subject to the control and direction of the United States of America as declared by law. But the political obligations herein assumed by the United States of America and the United States of Colombia are permanent and indefeasible."

EXPLANATIONS.

We feel obliged to disallow the amendments proposed by the Colombian ministers, and to insist upon the article as it was originally written.

1. The amendments of the Colombian commissioners are supposed to have arisen under a very natural misapprehension of facts and circumstances. The commissioners seem to suppose that the United States of America stand not only well disposed but fully prepared and impatient to commence, prosecute, and complete the projected ship-canal by a direct application of executive and administrative powers and faculties. It must have been this belief on the part of the Colombian ministers which induced them to propose that the United States of America shall not at all devolve the construction of the canal upon any private company, and that the care and conduct of the canal itself shall not be devolved upon any such

company until the canal shall have been fully constructed and brought into operation. It is supposed that the commissioners persisted under the same belief in prescribing contingent forfeitures of the rights of the anticipated company. Frankness on the part of the United States requires me to say that in regard to these important points the Colombian ministers are acting under a grave misapprehension. The territory of the United States is full of canals and railroads and other works of material improvement. The length of canals in this country is measured by thousands of miles, the length of our railroads by tens of thousands of miles. Nevertheless there is not, and there never was, within the territory of the United States of America one mile of railroad or canal which was directly constructed by the Government of the United States of America, or over which the United States of America exercises directly rights of property or control.

The United States construct only fortifications and other works of military strategy or defense, and navy-yards, light-houses, custom-houses, and the like. Every work of internal improvement in the United States has been made either by States or by corporate companies or by private individuals. What the Government of the United States do and always do in regard to such works of internal improvement is to accept or sanction such enterprises when undertaken by the various States or by corporate bodies or by private individuals, and lend them aid by way of compensation or loan or protection, with other practical encouragement. The Government of Colombia is familiarly acquainted with the Panama Railroad, which was made and is owned by a corporate company of the United States of America, and enjoys only the recognition, sanction, and protection of the Government of the United States.

Even the Pacific Railroad, which, although incomplete, nevertheless stretches near halfway across the continent at its widest part, was begun and has been thus far prosecuted, and will be prosecuted to the end, by corporate companies so encouraged and patronized by the Government.

Precisely the same course of proceeding is contemplated by the present convention in regard to the Darien Ship-Canal. It is believed that no other mode of proceeding in regard to the construction of the proposed canal could secure the assent or approbation of the Congress of the United States. It would be easy to show that this indirect mode of proceeding would tend greatly to the security and advantage of the United States of Colombia. Pri-

vate citizens of the United States and corporate companies created under their laws may be expected to be held by proper obligations to respect and obedience of the laws and authority of the United States of Colombia. On the other hand, I am unable to conceive of any proceeding that could be more perilous to the United States of Colombia than that one should allow a stronger government like that of the United States to become directly the proprietor or conductor of a ship-canal with free ports at its termini on the two oceans.

If, contrary to these views of the case, the Colombian Government shall continue to regard with disfavor the construction of the canal by a company or associations under the laws of the United States, and with their sanction, then the present negotiation may be immediately brought to an end.

I trust, however, that the practical view which I have suggested will be accepted by the United States of Colombia, and that they will not insist upon their proposed amendment, which denies to the United States Government the privilege of devolving the work of constructing the canal upon individuals or upon a corporated company.

2. This explanation having been made, it is not thought unlikely that the Colombian Government will assume that already some private individuals in the United States have organized themselves into an association, or that such individuals are now standing ready and eager to accept the powers and privileges which are to be stipulated in the present treaty, and to engage with the necessary capital in the construction of the Darien Ship-Canal. If this expectation has been or shall be formed it should be dissipated promptly.

Engineers the best qualified and informed estimate the cost of constructing the Darien Ship-Canal at one hundred millions of dollars in gold, and they calculate that it involves a sacrifice by pestilence and other forms of accidents of twenty-five thousand lives. No citizen of the United States of America, capitalist or otherwise, has moved or can be moved to engage in the vast enterprise except as he is influenced by the political, moral and social considerations which have inspired the proceedings of the Executive Department of the United States in the present negotiation.

The Executive Department believes, and thinks it has reason to believe, that were adequate inducements offered by the two countries a corporate association could be formed, competent to the enter-

prise, and called into activity ; but the entire proceeding is experimental.

No corporation will come forward and no capital will be subscribed unless such inducements and guarantees as have been suggested shall be furnished by the two Governments.

The assessments, charges, penalties, and forfeitures which the Colombian ministers propose would alarm and effectively deter capitalists from accepting the invitation which the projected treaty, as drawn up by me, is intended to hold out to them.

It is not supposed that the great achievement contemplated can be effected without immediate cost and expense and sacrifice to be incurred by both nations. The amount of accumulated capital in the markets of the world is too small, and the field for its employment is relatively too large, to justify an expectation that one hundred million dollars would be voluntarily and impetuously poured into the treasuries of either of the two Governments, or both of them, or of any corporate body that shall avow itself willing to undertake the work. Entertaining these views, I am of opinion that the stipulations proposed in the amendments of the commissioners to Article XIII. are impracticable and must be disallowed.

“ARTICLE XIV.

“Such citizen or citizens shall likewise hold their property, rights, immunities, and privileges in and about the same ship-canal subject to the authority of the Congress of the United States, and subject in like manner to the reservation herein contained in favor of the United States of Colombia.”

EXPLANATION.

This article has been rejected by the Colombian ministers. It is insisted upon by the United States. Reasons for the persistence will easily be inferred from the explanation which has been communicated under the head of Article XIII.

It is proper, however, to further say that the effect of Article XIV. would be to secure to such corporate company as should be authorized by the United States to prosecute and operate the Darien Ship-Canal just the same powers, and no others, than those which the draft of the treaty saves to the United States of America, and subjects such company to all the obligations and duties which the treaty proposed to devolve upon the Government of the United States, in case that Government should undertake to construct and operate the canal directly.

“ARTICLE XV.

“This treaty shall cease and terminate if the United States of America shall not make or cause to be made the surveys and locations of the canal herein provided for within three years after the ratification and exchange of this convention, or if they shall fail to begin the construction of the canal or cause it to be begun within five years after such ratification, or if they shall fail to cause it to be completed within a period of fifteen years after such ratification.”

EXPLANATION.

The Colombian commissioners accept this article.

“ARTICLE XVI.

“If, unhappily, any difference shall arise between the United States of America and the United States of Colombia growing out of this treaty, or out of the survey, location, construction, use, management, or revenues of the projected ship canal, the parties mutually engage not to resort to war on that account, but to refer all such difficulties and controversies to the arbitrament of some foreign nation which shall be impartial between the contracting parties, and which shall be favorable to the advancement of commerce, peace and civilization throughout the world.”

EXPLANATION.

We would prefer to insist upon Article XVI., here recited. It seems that the present is a suitable and convenient time for the two American nations to negotiate a treaty to manifest their confidence in the stability and wisdom of the republican system of government on the American continent. If, however, the Colombian commissioners shall persist in their proposed amendments the minister of the United States of America is at liberty to concede them.

“ARTICLE XVII.

“The Colombian ministers propose to amend this article by substituting one which declares that the convention shall not take effect until it shall have been approved by the Congresses of both contracting nations, and exchanged in due form.”

I propose to amend the amendment of the Colombian Commissioner by substituting in place of the original article a new article as follows :

“ARTICLE XVII.

“In consideration of the constitutions of the two nations, and of the magnitude and weight of the matters contained in this conven-

tion, it is declared that it shall not take effect, except as to the provisional surveys, until laws approving the convention shall have been passed by the respective Congresses of the United States of America and the United States of Colombia, and exchanged in due form, and that the provision for survey may take effect from the time when laws have been passed, approving of the convention by the Congress of the United States of Colombia, and when the convention shall have been duly ratified by the President, by and with the consent of the Senate, of the United States of America."

EXPLANATION.

A reliable preliminary survey of the Darien Ship-Canal is an object most desirable to be accomplished even if the provisions contained in this treaty for constructing the canal are unattainable.

The Congress of the United States have already appropriated sufficient funds and conferred on the President the power to make such a survey; so that no further action on that subject by the Congress of the United States is deemed necessary.

All that is required with regard to the survey is, that the consent of the United States of Colombia shall be given to that survey. While I think it would be unfortunate to lose the survey proposed in this amendment, I still leave the execution of that preliminary work to the full and free consent of the Congress of the United States of Colombia.

" ARTICLE XVIII.

" The present convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the United States of Colombia, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of _____, within twelve months from the date of the signatures of this convention."

EXPLANATION.

The Colombian ministers assent to this article.

I am, &c.,

WILLIAM H. SEWARD.

[*The above letter appears as Document 2, in Special Message of President, 8th March, 1880, pp. 27-36.*]

Diplomatic Correspondence.
1868, Part I.
Page 13.

9th December, 1868.

(Annual Message of the President of the United States.)

[*Extract.*]

* * * * *

"All commercial nations, as well as all friends of republican institutions, have occasion to regret the frequent local disturbances which occur in some of the constituent States of Colombia. Nothing has occurred, however, to affect the harmony and cordial fellowship which have for several years existed between that youthful and vigorous republic and our own.

"Negotiations are pending with a view to the survey and construction of a ship canal across the Isthmus of Darien, under the auspices of the United States. I hope to be able to submit the results of that negotiation to the Senate during its present session."

* * * * *

ANDREW JOHNSON.

EXECUTIVE MANSION,
December 9, 1868.

40th Congress, 3d Session.
Confidential.
Executive E.

14th January, 1869.

(Convention between the United States of America and the United States of Colombia, relating to the construction of a ship-canal between the Atlantic and Pacific Oceans, concluded at Bogota the 14th January, 1869.)

Whereas, the construction of a ship-canal between the Atlantic and Pacific Oceans, through the continental isthmus which lies within the jurisdiction of the United States of Colombia is essential to the prosperity and welfare of the United States of America and the United States of Colombia, as well as to the interests of commerce and civilization throughout the world; now, therefore, the United States of America and the United States of Colombia have agreed to enter into a convention for the purpose of facilitating and ultimately securing that great object, and with that view have appointed their plenipotentiaries, namely; the President of the United States of America, Peter J. Sullivan, minister resident of the United States to the United States of Colombia; and the President of the United States of Colombia, Miguel Samper, secretary of finance and

internal improvement of the Colombian union, and Tomas S. Cuenca ; and the said plenipotentiaries, having exchanged their full powers in due form, have agreed upon the following articles :

ARTICLE I.

The United States of Colombia agree and consent that the United States of America shall make, and the United States of America agree to make the necessary survey for such ship-canal ; and, if they ascertain the same to be feasible, then to locate the same, together with all its necessary appendages and appurtenances of locks, ports, harbors, stations, supply-feeders, and sluices, &c , on land and sea, upon the domain and within the jurisdiction of the United States of Colombia ; and to adopt a plan of construction, and to make a thorough and detailed estimate of the expense and cost of construction ; and for that purpose the United States of America may employ proper civil and military superintendents, engineers, accountants, and other agents and laborers, ships of war and transports, the military force, however, not to exceed, at any time, 500 rank and file without express consent of the United States of Colombia first obtained ; and all persons engaged in such service, whether civil, naval, or military, shall, while so engaged, render lawful submission and obedience to the civil authorities of Colombia.

When the survey and location shall be completed the President of the United States of America shall certify the same, with the necessary maps and descriptions to the President of the United States of Colombia, and the same surveys, locations and descriptions shall be filed in the archives of the two Governments.

The route and plan thus fixed may afterward be varied, as occasion shall require, under the authority of the United States of America, due notice being given of such modifications to the United States of Colombia. Said canal shall in no case be constructed on or across the route of the Panama Railroad, unless the company's consent has been first obtained.

ARTICLE II.

The United States of Colombia agree to concede, set apart, appropriate, and devote to the purposes of such ship-canal all the territory, including land, ocean, and tributary waters, which shall be designated for the purpose thereof in such plan and may be found necessary, and besides ten miles of waste, unsettled, and unimproved lands on each side of the canal throughout its entire

length, and all the materials for such construction found within the territory so to be conceded; private owners of property being entitled to have a just and reasonable indemnity to the effect whereof the Government of Colombia shall order the expropriations to be made according to its laws; but the valuation thereof, in no case, to be enhanced by reason of the proposed or actual construction of the canal.

The ten miles of land granted on each side of the canal shall be measured and divided into equal lots, the front whereof, bordering on the canal or its appendages, shall not exceed three thousand three hundred yards. Said lots shall be equally distributed between the two Governments, so that neither of them shall have two continuous or consecutive lots, nor the two first at either extremity of the canal, both Governments being able to dispose freely of their corresponding lots, but with the condition that they shall allow free passage thereby to and from the canal and its appendages. To begin the distribution the Government of the United States of America shall choose its first lot, and at the expiration of the term of this treaty shall give back to the Colombian Government, without exacting any amount for improvements made thereon, nor for any other reason whatever, all such lots or portions thereof which may not have been disposed of in favor of private individuals.

ARTICLE III.

The United States of Colombia stipulate and agree not to undertake or allow the opening of any other inter-oceanic canal or of any new railway through or across their territory from the Atlantic to the Pacific Ocean without the express consent of the United States of America being first obtained.

ARTICLE IV.

The outlay, cost, and expense of the survey, location, construction and equipment of the said canal and its ports, stations, depots and harbors, including damages paid for private property and the indemnity that may correspond to the Panama Railroad Company, should the case arise, in accordance with the contract celebrated by the Colombian Government and approved by Congress on the 15th of August, 1867, shall be for the account of the United States of America, but exclusively with reference to the purposes of this convention. The objects destined in Article II. by the United States of Colombia for the construction of the canal shall

remain in charge of the United States of America, but exclusively for the purposes of this convention.

ARTICLE V.

The United States of America shall construct said canal, with its appurtenances, suitable for the passage of all kinds of vessels, and may employ the necessary force of skill, art, and labor for that purpose. They may also maintain the necessary naval and military force, which shall at no time exceed 1,000 men, without the express consent of the United States of Colombia being first obtained ; as soon as the canal be brought into operation, said force shall be withdrawn by the Government of the United States of America, if it be so requested by the Government of the United States of Colombia. The United States of America engage that the employees, laborers, artificers, as well as the naval and military force so engaged, shall conform themselves to the laws and Government of the United States of Colombia.

ARTICLE VI.

As fast as the canal and its appendages and appurtenances shall be constructed, the control, possession, direction, and government of the same shall belong to and be exercised by the United States of America, the Government of the United States of Colombia at the same time being at liberty, after the exchange of this convention, to maintain a permanent committee of agents, with the full right to inspect the operations concerned, measure the tonnage of vessels, examine the books and accounts, and report thereupon to the Government of the United States of Colombia ; but not to interfere with the survey, control, management, directions, and working of the canal.

ARTICLE VII.

The Government of the United States of America shall establish a tariff of tolls and freights for the said canal on a basis of perfect equality for all nations, whether in time of peace or war. The proceeds of the canal shall be preferently applied to the reimbursement of the expenses incurred in the management, service, and government of the same, and to the reimbursement of the capital invested in its survey, location, and construction, including in the cost of construction the indemnities to be paid for private property, and that which may correspond to the Panama Railroad Company, should the case arrive, according to the contract entered into by the Colombian Government with said company.

Twelve years after the canal be brought into operation the Government of Colombia shall be entitled to an annual 10 per cent. of the net proceeds of the undertaking; and as soon as the Government of the United States of America shall have been reimbursed of the capital invested in the undertaking, up to the time when it be brought into operation, such proportion shall be of 25 per cent. of the said net proceeds, even if the reimbursement takes place within the first twelve years. The payment of the portion corresponding to Colombia, above mentioned, shall be made semi-annually in the city of New York.

For the purposes of this article it is stipulated: first, that the annual expenses of the undertaking shall in no case exceed 30 per cent. of its annual proceeds, unless the express consent of both contracting parties has been first obtained; second, that the net proceeds of the undertaking, corresponding to the Government of the United States of America, shall be preferentially applied, from the first year of its being brought into operation, to the reimbursement of the capital; and third, that in order to liquidate the net proceeds of the undertaking no deduction whatever shall be made for interest of capital invested therein, nor for the amount set apart as a reserved or sinking fund.

ARTICLE VIII.

The United States of Colombia shall retain their political sovereignty and jurisdiction over the canal and territory appertaining thereto; but they shall not only allow but guarantee to the United States of America, according to the constitution and laws of Colombia, now in force, the peaceable enjoyment, control, direction, and management of the same, as before specified.

ARTICLE IX.

The United States of America shall have the right to use the canal for the passage of troops, munitions and vessels of war, in time of peace. The entrance to the canal shall be rigorously closed to the troops of nations which are at war with another or others, including their vessels and munitions of war.

ARTICLE X.

Colombia shall not impose tolls or duties of any kind on vessels, passengers, moneys, merchandise, and other objects conveyed through the canal from one ocean to the other. But such effects as may be destined to be sold or consumed in the interior of Colombia

shall be liable to the duties and taxes that are or may be established.

ARTICLE XI.

Should a naval or military force be required for the protection or defense of the canal, and the Government of the United States of America agree to furnish the same, said force shall, for the object expressed, and during the time it may be needed, act under the concurrent orders of the two governments, and be paid from the proceeds of the canal.

ARTICLE XII.

The mutual rights and privileges hereinbefore specified shall continue for the term of one hundred years, reckoned from the day on which the canal be brought into operation ; at the end of which time the Government of Colombia shall enter into the possession, property, and enjoyment of the canal and lands appertaining thereto, wharves, stores, and all other appendages of the undertaking built at the extremities or along the canal, without being thereby obliged to pay indemnity of any kind whatever ; the United States of America being entitled to retain whatever sums they may have received during the one hundred years herein mentioned.

ARTICLE XIII.

The United States of America may, by law, devolve all their rights, franchises, duties, property, and obligations, touching survey, construction, and preservation of said canal, upon any individual citizen or association of citizens of the United States of America ; and in that case such citizen or association shall enjoy all the rights, property, and privileges, and be subject to all the obligations and engagements herein contained on the part of the United States of America. The differences which may arise between such citizen or association and the United States of Colombia as to the interpretation or fulfillment of the several clauses of this treaty shall be decided by a tribunal formed in the following manner: each party shall appoint a commissioner, and these two commissioners shall appoint an umpire who shall decide those cases in which the two former cannot agree. This tribunal shall hold its sessions in Bogota, and neither party shall have recourse against its decisions. In case one of the parties be required to appoint its commissioner and should not do it within the thirty days following, or should appoint a person who cannot or will not accept the appointment, then this appointment shall be made by the Government of the United States of

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America. The expenses of this tribunal shall be taken from the gross proceeds of the canal, as soon as it be brought into operation ; and before this takes place, such expenses shall be to the equal charge of both parties, but to be deducted from the first proceeds of the canal. In case the commissioners do not agree as to the appointment of the umpire, then the two contracting governments shall submit their differences to the arbitrament of some other friendly government in the manner stipulated in Article XVII.

The political obligations herein assumed by the United States of America and the United States of Colombia are permanent and indefeasible.

ARTICLE XIV.

Such citizen or association shall hold their property, rights, immunities, and privileges in and about the same ship canal, subject in like manner to the reservations herein contained in favor of the United States of Colombia.

ARTICLE XV.

In case the Government of the United States of America should devolve the undertaking, as mentioned in Article XIII, the privilege shall be forfeited, and the Government of Colombia enter into the possession and gratuitous enjoyment of the canal and its appendages in the following cases: First. If such citizen or association should transfer or underlet the enterprise in favor of any foreign government. Second. If such citizen or association should co-operate in any rebellious act against the Government of the United States of Colombia tending to the withdrawal from the dominion of said government of the territory wherein the canal may be constructed ; and Third. If, after the canal be constructed and brought into operation, the passage through the same be suspended for more than three years, save unforeseen cases or superior force beyond the control of said citizen or association. It is understood that the enumerated cases of forfeiture are comprehended in the matters of which the tribunal provided for in Article XIII has jurisdiction, and shall be judged by it both as to fact and law.

ARTICLE XVI.

This treaty shall cease and determine if the United States of America shall not make, or cause to be made, the surveys and locations of the canal herein provided for, within three years after the ratification and exchange of this convention, or if they shall fail to

begin the construction of the canal, or cause to be begun within five years after such ratification, or if they shall fail to cause it to be completed within a period of fifteen years after such ratification.

ARTICLE XVII.

If, unhappily, any difference should arise between the United States of America and the United States of Colombia, growing out of this treaty, such difference shall be submitted to the arbitrament of some impartial government, whose decision shall be, in every case, duly respected and fulfilled.

ARTICLE XVIII.

The United States of America and the United States of Colombia mutually agree to second the efforts of each other in procuring the friendship and guarantee of all other nations in favor of the stipulations of neutrality mentioned in Articles VII and IX, as well as the sovereignty of the United States of Colombia over the territory of the Isthmus of Panama and Darien.

ARTICLE XIX.

The present convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the United States of Colombia, with the consent and approbation of the Congress of the same; and the ratification shall be exchanged in the City of Bogota, within twenty months from the date of the signature of this convention.

In faith whereof, we, the plenipotentiaries of the United States of America and of the United States of Colombia, have signed and sealed these presents, in the City of Bogata, on the fourteenth of January, one thousand eight hundred and sixty-nine.

[SEAL.]

PETER J. SULLIVAN,
Minister Resident and Plenipotentiary of the
United States of America.

[SEAL.]

MIGUEL SAMPER,
TOMAS ÑUENCA,
Plenipotentiaries of the United States of Columbia.

[*The above Convention appears as Document 3, in Special Message of President, 8th March, 1880, pp. 36-40.*]

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Minister Resident and Plenipotentiary of the
United States of America.

[SEAL.]

MIGUEL SAMPER,
TOMAS ÑUENCA,
Plenipotentiaries of the United States of Columbia.

[*The above Convention appears as Document 3, in Special Message of President, 8th March, 1880, pp. 36-40.*]

40th Congress, 3d Session.
Confidential.
Executive L. L.

15th February, 1869.

(Special Message of the President of the United States.)

I transmit for the consideration of the Senate, with a view to ratification, a convention between the United States of America and the United States of Colombia, for facilitating and securing the construction of a ship canal between the Atlantic and Pacific Oceans, through the continental isthmus lying within the jurisdiction of the United States of Colombia, which instrument was signed at Bogota on the 14th ultimo.

ANDREW JOHNSON.

WASHINGTON, February 15, 1869.

DOCUMENT ANNEXED.

(Convention between the United States of America and the United States of Colombia, relating to the construction of a ship-canal between the Atlantic and Pacific Oceans, concluded at Bogota the 14th January, 1869.)

(For copy of above convention, see page 1240.)

[*The above Special Message and Convention appear as Document 3, in Special Message of President, 8th March, 1880, pp. 36-40.*]

41st Congress, 3d Session.
Confidential.
Executive E.

4th September, 1869.

(Mr. Fish to Mr. S. A. Hurlbut.)

[No. 6.]

DEPARTMENT OF STATE,

WASHINGTON, September 4, 1869.

SIR: I have read with much interest, and have submitted to the President, the memorandum on the interoceanic canal which accompanied your letter of 29th August. The proposal of a protectorate over the canal, in which other maritime powers should be joined with the United States in equal control, would probably remove many of the obstacles to the attainment of the grant, and may secure the ratification of a treaty by the Colombian Government. But in the present state of international law, such joint protectorate would

be the source of future trouble, and, while it might facilitate the concession by the Colombian Government, would be viewed with apprehension in the country, and might probably prove an obstacle to the ratification by the United States Senate of a treaty on the subject. Apart, however, from the latter consideration of expediency, the President is disinclined to enter into any entanglement in participation of control over the work with other powers. He regards it as an American enterprise which he desires to be undertaken under American auspices, to the benefit of which the whole commercial world should be fully admitted. There is no objection to the allotment of a share in the stock of the company, and thus to a participation in whatever profits may be realized with other powers. Your proposition in this respect meets his approval, with the limitations that a majority of the stock (say 55 per cent. of the whole) shall be held by citizens of the United States. If, then, the allotment of stock (less than half) to the other maritime nations, with a vice-president and local board in each of the countries thus participating in the construction, will secure the co-operation of these countries, or prevent their opposition to the accession of Colombia, you are authorized to assure it. The general views of your memorandum, limited as above, meet the approval of the President. Should you be able to negotiate a convention with Colombia which shall receive the approval of the two Governments, the President will favor the granting of a charter, with the most liberal provisions in the general direction indicated in your memorandum. Your own negotiation and the discussion upon the treaty may suggest modifications of the details of a charter, to which, therefore, it is not advisable, as it is not practicable at present, to commit the Government. But you may assume that the general outline you have indicated, with the limitation before mentioned, will receive the sanction and support of the President.

HAMILTON FISH.

[*The above letter appears :*

I. As Document 1, in Special Message of President, 6th December, 1870.

II. As Document 4, in Special Message of President, 8th March 1880, pp. 48-49.]

41st Congress, 3d Session.
Confidential.
Executive E.

29th November, 1869.

(Mr. S. A. Hurlbut to Mr. Fish.)

[No. 5.] LEGATION OF THE UNITED STATES,
BOGOTA, November 29, 1869. (Received January 12.)

SIR:

* * * * *

I have prepared a note to the secretary for foreign affairs proposing the opening of negotiations on the subject of the canal, which I shall forward to him on December 1.

I have had several informal conversations with Senor Pradilla, the secretary of foreign affairs, and am advised confidentially by him that the negotiations on the part of Columbia will be devolved upon commissioners known to be favorable to the United States. It is perfectly understood here that the summary rejection of the treaty by the Colombian Senate was, and was intended to be, a rebuke, on strict party grounds, to the Gutierrez administration. The new senate, it is hoped, will have other feelings, and address themselves to the question on different grounds. The truth is, that the construction of the canal under the national authority is the only safeguard against disintegration of this republic.

S. A. HURLBUT.

[The above letter appears:

I. As Document 2, in *Special Message of President*, 7th December, 1870.

II. As Document 4, in *Special Message of President*, 8th March, 1880, p. 49.]

41st Congress, 3d Session.
Confidential.
Executive E.

5th January, 1870.

(Mr. S. A. Hurlbut to Mr. Fish.)

[No. 7.] LEGATION OF THE UNITED STATES,
BOGOTA, January 5, 1870. (Received March 1.)

SIR:

The President of Colombia having appointed Dr. Justo Arosemena and Dr. Jacob Sanchez as plenipotentiaries, the sessions of the conference were duly opened, have been continued from time to time, and are now pending. We have agreed upon nearly all the

material points of the treaty, and I think it will be decidedly superior in advantages to the United States to the one negotiated by my predecessor. The articles are not yet reduced to form, but I give the substance of the principal provisions. The term of the grant is one hundred years from the date of opening the canal for business. The grant of lands in aid is for 200,000 hectares (494,220 acres), to be chosen by the United States in any part of the State in which the canal shall be constructed. Lands which may border upon the canal on each side are to be equally divided between the two countries. The right of way for the canal and its dependencies is given free over government lands or waters, and all national lands and waters necessary for the canal, its ports, harbors, and other accessories are also given free of charge. The United States are permitted to use military and naval force to protect the explorations and surveys. Land force not to exceed five hundred men, except by consent of Colombia. They are also permitted to use land and naval forces to protect the construction of the canal; such land force not to exceed one thousand men without consent of Colombia. Three years are allowed for explorations and determining the practicability of the work. Five years to commence the work. These periods commence from the exchange of ratifications. Fifteen years are allowed to complete the canal, counting from the date of the commencement of the work. All machinery and supplies and other necessities of the work, either for construction or maintenance, to be absolutely free of all duties. No taxes or imposts, national, State, or municipal, ever to be imposed on the canal or any of its properties or franchises. No special taxes upon the persons or property of any employé of the canal other and different from the general contributions and taxes imposed upon citizens by law. The canal to be opened to all nations at peace with *both parties*, on terms of absolute equality of duty and imposts; but to be rigorously closed against the flag of all nations at war with either. Ships of war, troops, and munitions of the United States of Colombia to pass freely through the canal *at all times* free of charge. Yards and docks may be erected by the United States at each extremity of the canal for the repair and supply of their ships, and a sufficient force of *police* stationed at such to guard public property. I was obliged to use the word "police," as this nation, being weak, is excessively jealous of another flag on their territory; but I apprehend marines will make a capital "police." The United States agree to aid in protecting and defending the canal

against foreign attack and invasion ; and Colombia to protect it as part of her territory to the extent of her ability.

The duties on the canal are to be levied in several forms : 1st. Tonnage duty on vessels, including ships of war of other nations. 2d. Tax on passengers. 3d. *Ad valorem* duties on freights, cargoes, and merchandise.

1st. Of the above Colombia receives, as specific charges, 10 cents per ton for the first ten years, and five cents additional for every five years thereafter until the maximum of 40 cents shall be reached : *Provided*, That such specific charge shall in no case exceed 10 per cent. of the amount charged per ton by the canal.

2d. Passenger tax. Colombia receives \$2 for each cabin passenger, and \$1 for each steerage passenger.

3d. *Ad valorem* duties. Colombia receives 5 per cent.

There is no participation in freights proper, nor for the use of harbors, docks, wharves, warehouses, towage, and the many incidental services which will attend such work.

Ad valorem duties on cargoes and merchandise are to be assessed on the values at the port of shipment if they can be fairly ascertained. If there be no port of shipment (as in case of whalers), or the value there cannot be fairly ascertained, then on the value at the entry into the canal. The specific portions due to Colombia may be demanded by her, to be paid direct to her own officers at canal ; the others, quarterly, half-yearly, or yearly, as Colombia may by law determine. The entire government, direction, and internal management of the canal to be wholly, and without interference, in the United States ; Colombia, however, preserving her sovereignty and jurisdiction over the territory and its inhabitants. All questions between the United States and Colombia, in relation to this treaty, to be determined by arbitration of some friendly powers. All the rights and privileges granted may be transferred to any citizen or corporation created by law of the United States as fully as granted to the United States, but the United States as trustee for Colombia, in case of such transfer, will see to the enforcement of the reservations in favor of Colombia. All questions between the canal company and Colombia to be referred to arbitrators, mutually selected, to sit in Bogota ; the expenses of which tribunal shall be equally borne by each party. The principal difficulty seems to be in relation to the Panama Railroad Company. That company procured in 1867 a renewal of its charter, for which renewal it paid \$1,000,000, and agreed to pay the sum of \$250,000

annually. To protect themselves against this very project of a canal, they inserted a very shrewd provision in the second article, to wit: That if a canal shall be built across the Isthmus west of a line drawn from Cape Tiburon to Point Garachine (which is the only practicable country), then they should be entitled to equitable damages arising from such construction; that they (the company) may make out their claim, and Colombia may accept or reject it, and in case of rejection the question shall be submitted to arbitrators, one chosen by the railroad, the other by Colombia, these two to select a third, whose decision shall be final. But Colombia is to receive half of such damages. Thus the tribunal is grossly partial and unjust. I endeavored in the conferences to have the moiety belonging to Colombia assigned to the United States, but it was decidedly negatived. I then proposed that the United States should have the option of accepting or rejecting the claim made by the company, and of apportioning the arbitrators to be named by Colombia, so as to secure an equal chance in the tribunal of the canal. This proposition was finally agreed to, and I consider it worth \$3,000,000 to the canal. This feature, although of great importance to us, will bring down the unqualified opposition of the Panama Railroad Company to the confirmation of the treaty by Congress, and if I cannot get it confirmed before the Panama Company can get its forces and its money here, I shall have a very hard fight with them. The equity of the principle is so manifest that in any other country it would be sure to pass without question. But here, where most of the Congress are venal, the struggle will be of money. If the canal company were organized they could meet this opposition. I shall quietly and indirectly use such influence as may be of advantage.

I have thus given you a sketch of the principal provisions of the treaty. To the United States as a nation the unqualified right of passing ships of war, troops, and munitions *at all times* free of charge, and the right of docks and yards for repairs, &c., are enormous advantages over the other treaty. It gives us secure and rapid transit by sea from one coast to the other of our domain, and excludes from these advantages any nation in hostility with us. It gives us harbors of refuge and repairs for our fleets on the Atlantic and Pacific.

The rates of the share of Colombia in the earnings of the canal are the best I could obtain, and are such as, in my judgment, will not hinder the successful and profitable use and management of the

work. The 5 per cent. of receipts "*ad valorem*" is reasonable, and only applies to cargoes and merchandise passing through the canal. Services rendered, as towage, warehouse, wharfage, and harbor dues, do not enter into this account, nor do freights proper, *i. e.*, the earnings of the vessel.

I think you may safely rely upon the fact that the principal features above sketched out will be preserved in the final draught.

I expect that the treaty will be concluded and signed in time for the next mail. As soon as it is completed and executed I shall send it forward by special messenger, to whom I shall request that the customary compensation for this difficult and expensive voyage may be made.

S. A. HURLBUT.

[*The above letter appears:*

I. As Document 3, in Special Message of President, 7th December, 1870.

II. As Document 4, in Special Message of President, 8th March, 1880, pp. 49-51.]

41st Congress, 2d Session.
House Ex. Doc. No. 113.
In Vol. 6.

11th January, 1870.

[REPORT TO HOUSE OF REPRESENTATIVES.]

(Report of C. H. Davis on interoceanic communications at American Isthmus, January 11, 1870.)

[*Contains 19 pages translated from Spanish official documents, covering the period 1757 to 1788. Of great historical but no diplomatic importance.*]

(Omitted.)

41st Congress, 2d Session.
House Ex. Doc. No. 81.
In Vol. 6.

25th January, 1870.

[REPORT TO HOUSE OF REPRESENTATIVES.]

(Report to Committee of House of Representatives by Secretary George M. Robeson, Navy Department, in response to resolution of House relative to diverting appropriation of Navy Department to the survey of the Isthmus of Darien, January 25, 1870.)

(Omitted.)

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J. H.

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